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PASSED BY

THE THIRD GENERAL ASSEMBLY

OF THE

Mississippi Territory,

DURING

Their First Session,

BEGAN AND HELD IN THE TOWN OF WASHINGTON, ON THE FIRST
MONDAY IN DECEMBER, IN THE YEAR OF OUR LORD
ONE THOUSAND EIGHT HUNDRED AND FOUR,
AND OF THE INDEPENDENCE OF THE
UNITED STATES OF AMERICA
THE TWENTY-NINTH.

Published by Authority.

NATCHEZ:

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1805.

51732

ACTS, &c.

AN ACT

Regulating the Solemnization of Marriages.

Sec. 1. **BE** it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That any one of the territorial judges, any ordained minister of the gospel, and any justice of the peace within the county in which such justice is assigned to keep the peace, may solemnize the rites of matrimony between any free persons within this Territory, who shall produce a licence as herein after directed: *Provided*, That such minister shall have produced to the orphans' court of the county in which he resides, credentials of his ordination and of his being in regular communion with the christian society of which he is a member, and have obtained from such court a testimonial authorizing him to solemnize the rites of matrimony in this Territory; which said testimonial shall be granted at the discretion of said court, and recorded by the register in a book to be kept for that purpose; as also for the purpose of recording therein all marriage licences, consent of parents and guardians and certificates of the solemnization of marriages.

Who may solemnize the rites of matrimony

between free persons within this Territory,

Provided;

Sec. 2. *And be it further enacted*, That marriage licenses shall be hereafter granted and issued by the

Marriage licences where & by whom to be issued.

ed, and under
what regulations
and restrictions.

register of the orphans' court of the county in which the *feme* usually resides, under the following regulations and restrictions: The register shall take a bond with sufficient security, in the penal sum of two hundred dollars, payable to the governor of this Territory, for the time being, and his successors in office, for the use of the Territory, conditioned that there is no lawful cause to obstruct the marriage for which such licence is required; and if the male intending to marry, be under the age of twenty-one years, or the female under the age of eighteen years, the consent of the parent or guardian of such infant shall be personally given before said register, or due proof made to him by the oath of at least one credible witness, which oath said register is hereby authorized to administer, that such parent or guardian did sign a certificate (then produced) giving his consent for the celebration of such marriage; whereupon said register shall record the consent personally given as aforesaid, or the certificate thereof proved as aforesaid, and issue a licence and record the same, directed to any judge, minister or justice lawfully authorized to celebrate the rites of matrimony; and if any register shall issue any marriage licence without the requisites before prescribed, or in any other manner than above mentioned, such register shall, for each offence, forfeit and pay five hundred dollars, recoverable by action of debt, in any court having cognizance thereof, one half to the use of the Territory and the other half to the use of the person suing for the same.

Penalty on judges, &c. for marrying persons without licence.

Sec. 3. *And be it further enacted,* That if any judge, minister or justice, shall join any persons together as man and wife without lawful licence, as by this act required, or go out of this Territory and marry persons belonging to the Territory

without such licence, such judge, minister or justice, shall, in either case, forfeit and pay the sum of one thousand dollars, to be recovered by action of debt, one half to the use of the Territory and the other half to the use of the person suing for the same: *Provided*, That it shall be lawful for the people called Quakers and Menonists, or any other Christian society, that have adopted similar regulations in their church, to solemnize their own marriages and be joined together as man and wife, by the mutual consent of the parties openly published and declared before their congregation when convened for religious worship, in manner and agreeable to the regulations heretofore practised in their respective societies.

Provido, as to Quakers, &c.

Sec. 4. *And be it further enacted*, That a certificate of every marriage hereafter solemnized, signed by the judge, minister or justice celebrating the same, or (in case of Quakers, Menonists and other societies that solemnize their marriages by consent of parties taken in open congregation as aforesaid) by the clerk of the meeting, shall be transmitted by such judge, minister, justice or clerk, as the case may be, to the register of the orphans' court of the county wherein the marriage is solemnized, to be recorded within six months thereafter, by said Register, an exemplification of which shall be evidence of such marriage. And the said Register shall receive for his services for taking bond, consent of parents or guardians, and recording the same, granting and recording licence and marriage certificate, the sum of two dollars to be paid at the time of issuing such licence. And every judge, minister, justice, or clerk of a congregation, as the case may be, failing to transmit such certificate to the register within the time above prescribed, shall forfeit and pay the sum of fifty dollars, to any person who will sue for the same.

Certificates of marriages to be transmitted to and recorded by the register of the orphans' court of the county in which the marriage is solemnized.

Register's fees.

Penalty for failing to transmit certificate of marriage to the register.

Within what degrees it shall be lawful for persons to marry,

Under what penalty.

Court on conviction, to declare such unlawful marriage void, &c.

Issue of such marriages, begotten before the same are annulled, legitimate.

Repealing clause.

Sec. 5. *And be it further enacted*, That if any person shall marry within the following degrees, that is to say : If the son shall marry his mother or step-mother, the brother his sister, the father his daughter, or his son's daughter, or his daughter's daughter, or if the son shall marry the daughter begotten and born of his step mother, or his aunt being his father's or mother's sister, or marry his uncle's widow, or if the father shall marry his son's widow, or if any man shall marry his wife's daughter, or his wife's son's daughter, or his wife's daughter's daughter, every person or person so unlawfully married shall be prosecuted by indictment, and on conviction, shall be fined not exceeding five hundred dollars, to the use of the Territory ; and the court, on conviction as aforesaid, shall moreover declare such marriage null and void to all intents and purposes, and may, at their discretion, cause the parties so separated to enter into a recognizance, with security, that they will not cohabit thereafter : *Provided*, That nothing herein contained shall be so construed, as to render illegitimate the issue of any such marriage begotten before the same is so annulled.

Sec. 6. *And be it further enacted*, That an act entitled, " A law regulating marriages," passed by the governor and judges the twenty-eighth day of February, A. D. one thousand seven hundred and ninety-nine, be, and the same is hereby repealed,

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, January the 5th, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

Concerning Indians.

Sec. 1. **BE** it enacted, by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That if any person or persons, residing in, coming into or passing through the Mississippi Territory, or any part thereof, shall presume to furnish, vend, sell or give, or shall direct, or procure to be furnished, vended, sold, or given upon any account whatsoever, to any Indian or Indians, being within this Territory, any rum, brandy, whiskey or other intoxicating liquor, or drink, without special permission in writing from the Governor as superintendant of Indian affairs; he or she so offending shall forfeit and pay for every quart of such liquor, or drink so furnished, the sum of twenty dollars, and for every quantity furnished at one time, less than a quart, the sum of ten dollars, to be recovered by any person suing for the same, before any Justice of the Peace of the proper county, when the sum of the penalty or penalties does not exceed the sum of twenty dollars, and when the sum shall exceed twenty dollars, before any Court having competent jurisdiction. to be applied in either case, one half to the informer, and the other half to the use of the Territory.

Penalty for furnishing Indians with intoxicating liquors,

without permission,

and how recoverable.

Sec. 2. *And be it further enacted,* That the act entitled, "An act concerning Indians," passed the tenth day of February, one thousand eight hundred and three, be, and the same is hereby repealed.

Repealing clause.

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, January the 17th, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

To repeal part of the act entitled, "An act to prevent unlawful hunting, and for other purposes," passed, February the tenth, one thousand eight hundred and three.

Fifth and sixth
sections repealed.

BE it enacted, by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That the fifth and sixth sections of the act entitled "An Act to prevent unlawful hunting, and for other purposes," be, and the same are hereby repealed.

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, January the 17th, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

For the relief of John Randon and others.

John Randon and
others relieved
from their dis-
abilities in being
witnesses.

BE it enacted by the the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That John Randon, James Randon, William Hollinger, George Sligens and Mary Dyer, and their descendants, be, and they are hereby exempted from all the disabilities of the thirty-second section of an act entitled, "An act for the more convenient organization of the courts of this Territory," passed the twenty-sixth day of January, one thousand eight hundred and two. PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, January the 18th, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

To establish a Hospital in the City of Natchez, and for incorporating Trustees of the same.

WHEREAS great numbers of sick and distressed boatmen employed in the navigation of the river Mississippi, and other indigent persons destitute of the means of procuring medical assistance are found in the City of Natchez and other parts of this Territory, for the relief of whose wants private charity and present legal regulations are inadequate, and subscriptions to a considerable amount having been raised, and the sum of one thousand dollars bequeathed by the late George Cochran, Esq. for the purpose of establishing a Hospital in said City : And whereas David Lattimore, Garret E. Pendergraft, William Lyon, Joseph Macrery, James Speed, Andrew Macrery and Frederick Seip, physicians of that place, have humanely proffered their professional services gratis, for the benefit of such an institution :

Preamble.

Sec. 1. *BE it therefore enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That there be erected and established in the City of Natchez, a Hospital for the reception and relief of indigent boatmen and other paupers of every description in this Territory, who may be in want of medical aid and assistance, and who, if without the limits of the city, may be sent thither by order of any justice, at the expence of his proper county; to be called and known by the name of the "Natchez Hospital," to be under the care, government and regulation of a body politic and corporate, as herein after provided.

A hospital in the city of Natchez, erected and established,

by the name of the "Natchez Hospital,"

Sec. 2. *And be it further enacted,* That John Steel, Adam Bingham, William Brooks, William

President and trustees of the

Natchez Hospital G. Forman, Abijah Hunt, John Girault, Ferdinand L. Claiborne, Samuel Postlethwait, jun. John Henderson and Job Ruth, together with the Mayor of the City of Natchez for the time being, be, and they are hereby created a body politic and corporate, by the name of "The President and Trustees of the Natchez Hospital;" and that they and their successors duly elected members of the said corporation, shall be and remain a body politic and corporate by that name forever; and they and their successors shall be persons in law capable of suing and being sued, pleading and being impleaded, in all courts and places whatsoever, and may have a common seal, and alter and change the same at pleasure; and they and their successors shall by the same name in law be capable of receiving, purchasing, holding and conveying any estate real or personal for the institution and use of said Hospital; and all subscriptions, donations, grants, gifts, bequests and devises, made or that may be made for the institution or use of said Hospital, shall appertain to, and vest in said corporation by the aforesaid name, for the use and benefit of said Hospital, and for effecting the purposes and intentions of the donors and grantors.

Sec. 3. *And be it further enacted,* That the number of said Trustees, including the President, shall not exceed eleven, six of whom shall be a quorum to do any business in their corporate capacity; and the Mayor of the City of Natchez shall *ex-officio* be President, but in his absence a President *pro tempore* may be elected; and said President and Trustees shall have power, from time to time, to fill up all vacancies that may happen in said corporation, by the election of suitable persons as successors, and they shall have power and authority to determine the time and place of their meetings, and the manner of notifying the same.

to be a body politic & corporate,

the title thereof.

Number of trustees.

The President.

Vacancies how filled.

Sec. 4. *And be it further enacted,* That said president and trustees shall elect from their own body, a treasurer, who shall give bond and security to said corporation, in the sum of ten thousand dollars, conditioned for the faithful performance of the duties of his office, and for rendering a just and true account of all monies, securities and property of every kind coming into his possession as treasurer, when and as often as thereto required; and all deeds signed and delivered by said treasurer, by order of said president and trustees, sealed with their seal, shall, when made in their corporate name, be considered in law as the deed of said corporation; and all monies, securities and other property of said president and trustees, coming into the hands of said treasurer, together with all books in which his accounts, as treasurer, are entered and kept, and all papers and vouchers thereto appertaining, that may be in his hands at the expiration of his office, shall, on demand of him, his executors or administrators, be paid and delivered over to his successors; and all monies recovered on the treasurer's bond, shall be paid to the president and trustees, for the uses, and subject to the appropriations aforesaid.

A treasurer to
give bond, &c.

his duties.

Sec. 5. *And be it further enacted,* That said president and trustees, shall have power and authority, from time to time, and at all times hereafter, to employ physicians and surgeons to attend said Hospital, with such powers and under such regulations as said president and trustees shall deem expedient: *Provided,* That such physicians and surgeons shall be of the city of Natchez, so long as the medical faculty in that place will attend the institution gratis. And said president and trustees shall have power and authority to elect and appoint managers, overseers, or stewards of said Hospital, and all necessary officers and servants, to

President, &c.
employ physicians
ans.

Proviso.

and to appoint
managers, over-
seers, &c.

Further powers
of president and
trustees,

to make rules and
ordinances.

To erect and keep
in repair one or
more houses for
a hospital, &c.

Reservation of
power to the le-
gislation over this
act.

Grant of an an-
nual allowance
out of the terri-
torial treasury to
the hospital.

declare the tenures, salaries, emoluments and duties of officers, to determine the mode of ascertaining what description of persons or patients are entitled to admission into said Hospital, and to benefits of the institution gratis, and what description of persons or patients shall be admitted on terms of compensation and the quantum thereof, to make and ordain all reasonable rules, ordinances and bye-laws (not repugnant to the ordinances and laws of this Territory) with reasonable penalties for the good government of said institution.

Sec. 6. *And be it further enacted*, That said president and trustees be, and they are hereby empowered, to erect and keep in repair, one or more house or houses for a Hospital, and such other buildings as they may deem necessary for said institution.

Sec. 7. *And be it further enacted*, That the legislature of this Territory may grant any further powers to, or alter, limit, annul or restrain any of the powers by this act vested in said corporation, as shall be judged necessary to promote the benevolent objects and best interest of said institution.

Sec. 8. *And be it further enacted*, That there be and hereby is granted to the president and trustees of the Natchez Hospital, for the use and benefit, and for the purpose of supporting the same, the annual sum of one thousand dollars, to be paid out of the treasury of this Territory, for the space of five years from the first day of May next ensuing.

PHILANDER SMITH, *Speaker of the
House of Representatives.*

JOHN ELLIS, *President of the Legisla-
tive Council.*

APPROVED, January the 18th, 1805.

CATO WEST, *Secretary of the Mississippi
Territory, acting as Governor of the same.*

AN ACT

For the easy and speedy recovery of small debts.

Sec. 1. **BE** it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That upon complaint made to any justice of the county court or justice of the peace, in any county, against any person, for any debt or demand, not exceeding the value of twenty dollars, such justice is hereby authorized and required to issue his warrant in the nature of a summons, *capias* or attachment (as the case may require) directed to any constable of the county in which such justice is assigned to keep the peace, and in which the defendant resides, commanding such constable to bring the defendant, or cause him to appear before the justice issuing such warrant, at the time and in manner following, that is to say, in case of a process in the nature of a *capias*, forthwith after service thereof, but in case of a summons, to summons the defendant to appear before said justice at a certain time and place therein mentioned, not less than three nor exceeding nine days from the time of issuing such summons.

Justices of the peace authorized upon complaint made against any person for any debt or demand not exceeding 20 dollars, to issue a summons, *capias* or attachment, directed to any constable of his county, and

where defendant resides,

when returnable;

Sec. 2. *And be it further enacted*, That at the time and place of hearing such cause, said justice, after hearing the proofs and allegations of the parties shall give judgment accordingly to the merits and right of the cause; on the hearing of which said justice may examine the parties, plaintiff or defendant, on oath, touching the debt or demand in controversy, the payment or discharge thereof, and the manner the same became due, which oath said justice is hereby empowered to administer; and if any party, plaintiff or defendant, shall swear false, on his or her examination before such justice, he or she so offending, shall be deemed guilty of

Justice to give judgment;

may examine parties on oath;

Penalty for swearing false.

wilful and corrupt perjury, and on conviction thereof be punished accordingly.

Rules of proceeding in case of summons.

Sec. 3. *And be it further enacted*, That if the defendant do not appear at the time and place appointed in any summons issued as aforesaid, and oath or affirmation being made by the constable that said summons was served on the defendant by reading the same in his or her presence and hearing, or by leaving with such defendant a true copy thereof at least two days previous to the time therein appointed for such appearance, then the justice who issued said summons may either then or on such future day (to which he may adjourn or continue said cause) hear and determine the same in the absence of the defendant and grant judgment and execution thereon.

Rules of proceeding in case of attachment.

Sec. 4. *And be it further enacted*, That when the process shall be required to be in the nature of an attachment, the justice before issuing the same, shall take the affidavit of the plaintiff, or some other credible person, of the amount of the debt or demand, and that the defendant so absconds or secrets himself that the ordinary process of law cannot be served upon him, and also a bond to the defendant, with sufficient security, in the penal sum of double the debt or demand sworn to, conditioned that the plaintiff shall prosecute his suit to effect, and pay to the defendant all such damages as he, by any suit to be commenced within twelve months thereafter, shall make appear he hath sustained by the wrongful suing out of such attachment; and such attachment may be levied on the defendant's goods and chattels, and any person may be summoned thereon to appear as garnishee before said justice at a certain time and place, not less than five nor more than ten days from the time of summoning such garnishee, to answer on oath what he or she was indebted to the

defendant, and what effects of said defendant, he or she had in his or her hands or possession at that time; and on appearance of such garnishee, judgment shall be entered against him or her for the sum disclosed to be due, or effects in his or her hands; and if such garnishee fails to appear and disclose, on oath, as aforesaid, judgment may be entered against him or her, conditionally, and a citation issue for him or her, to shew cause, at a certain time and place, not less than five nor more than ten days thereafter, why such judgment should not be confirmed, and on a second default, the same judgment shall be confirmed against such garnishee for the amount of the plaintiff's debt or demand, and judgment entered against said garnishee, in either case, shall be subject to the recovery of the plaintiff in the suit, and the justice issuing such attachment shall, after the expiration of thirty days from the time of issuing the same, (within which time the defendant, if he appears, may defend the suit) proceed to hear the plaintiff's allegations and proofs, and give judgment for the sum due, and issue execution against the defendant's goods, chattels and effects, attached or in the hands of any garnishee, or against the garnishee for the sum disclosed to be due from him, or amount of the plaintiff's judgment, as the case may be.

Sec. 5. *And be it further enacted*, That the party against whom judgment is entered (excepting garnishees) and the plaintiff, in case of non-suit, shall pay costs; and the justice before whom any cause may be depending, is empowered to issue *subpœnas* for witnesses at the instance of either party: and commissions to take the depositions of witnesses resident out of his county, and depositions taken by virtue of such commissions on such notice to the adverse party, of the time and place

Costs of suit allowed, and

subpœnas for witnesses and commissions to take depositions,

to be read in
evidence.

Justices to make
fair entries of
their proceed-
ings.

To issue execu-
tions,

proceedings
thereon.

Appeal from
judgment of just-
ices.

of taking the same, as the justice shall direct shall be read in evidence, and the justices shall cause fair entries to be made in the books to be by them, provided for that purpose, of the names of plaintiff and defendant in any suit brought before them with the debt and costs adjudged and the time when such judgment was given, and any justice giving judgment as aforesaid, may issue execution thereon,, directed to any constable in his county, by virtue of which the defendants goods and chattels shall be taken and sold to satisfy the debt and costs, and for want of goods and chattels the defendant's body shall be taken by virtue of such execution, and coveyed to the common Gaol of the county, and the sheriff or keeper thereof is hereby authorized and required to retain the defendant so taken in execution and him or her safely keep till the debt and costs be satisfied, or such prisoner be otherwise lawfully discharged.

Sec. 6. *And be it further enacted*, That if any person shall conceive him or herself aggrieved by the judgment of any justice when such judgment including cost amounts to ten dollars, or upwards, the person so aggrieved may at any time of the day of rendering such judgment, pray and obtain an appeal to the next county court of the proper county, where the cause shall be tried *denovo* by the court in a summary way, without jury and judgment given according to the right of the case, and execution awarded ; and from the judgment therein of said county court no appeal shall be allowed: *Provided*, That any person appealing from the judgment of a justice shall, before obtaining such appeal enter into a recognizance, with sufficient security, in double the amount of the debt or damages sued for ; conditioned that the appellant shall prosecute his appeal to effect, and perform the judgment, sentence, or decree the county court

may render therein, and such recognizance shall be filed with the transcript of the judgment in the office of the clerk of the county court, and judgment entered in said court against the surety at the time of entering the same against the principal.

Sec. 7. *And be it further enacted,* That execution on any judgment rendered by a justice against a defendant for any sum not exceeding ten dollars may be respited twenty days, and for any sum exceeding ten dollars forty days : *Provided,* That the defendant before obtaining such respite of execution, shall enter into a recognizance before said justice on the day of rendering judgment, with sufficient security, conditioned that the defendant shall pay the amount of the judgment and costs within the time limited, or render himself a prisoner in execution in discharge thereof, and on condition broken of such recognizance the justice may issue his summons for the party to appear and shew cause why judgment should not be entered against such security ; which judgment such justice is empowered to grant, if it appears that the condition of said recognizance be broken, and award an execution, and no appeal, stay, or respite of execution shall be had in such case.

Respite of execution on judgments of justices of the peace.

Sec. 8. *And be it further enacted,* That if any person summoned to appear as a witness in any cause before a justice of the peace shall neglect to attend and give testimony, may be called out on the *subpœna* before such justice, and a forfeiture of twenty dollars entered against such defaulting witness, conditionally however, to be confirmed if such witness do not render a sufficient excuse before said justice for his non attendance, on or before the return of a summons, to shew cause at a certain time and place not less than five nor more than ten days from the time of serving the

Penalty on a witness neglecting to appear and give testimony.

How recoverable.

same, and judgment for such forfeiture may be confirmed by said justice, one half to the use of the county and the other half to the use of the person at whose instance the *subpœna* issued.

Justices not to
take cognizance
of certain mat-
ters.

Sec. 9. *And be it further enacted*, That nothing in this act shall be so construed as to authorize any justice to take cognizance of any action for slander, assault and battery, or imprisonment, actions of replevin, or on real contracts, or such actions wherein the title of lands may in any wise come in question.

Repealing
clause.

Sec. 10. *And be it further enacted*, That an act entitled, "A law for the easy and speedy recovery of small debts," passed by the governor and judges, the seventeenth day of April, seventeen hundred and ninety-nine, be, and the same is hereby repealed.

PHILANDER SMITH, *Speaker
of the House of Representatives.*

JOHN ELLIS, *President of the
Legislative Council.*

APPROVED, February the 1st, 1805.

CATO WEST, *Secretary of the
Mississippi Territory, acting as
Governor of the same.*

AN ACT

Prescribing the duties of Constables.

Justices to ap-
point constables,

two for each
captain's district,

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That the justices of the inferior or county courts, shall at the first term of every year, appoint not exceeding two fit and proper persons in each captain's district for the respective counties as constables, who shall

hold their appointment for one year, and shall take and subscribe the following oath or affirmation, that is to say, I A. B. do solemnly swear (or affirm, as the case may be) that I will faithfully execute and return all summons, warrants, precepts and executions directed to me as constable for the county and in all things well and truly to the utmost of my power, without malice or partiality, perform the duties of a constable for the time I may continue in office, so help me God; and that previous to their entering on their respective appointments, shall severally give bond to the governor and his successors in office, with security, which shall be approved of by the said justices, for the true and faithful performance of the duties of their respective appointments, which bond shall be deposited in the clerk's office of their respective counties.

to hold their office one year,

their oath.

To give bond and security to be approved of by the justices.

Sec. 2. *And be it further enacted,* That any justice of the peace may, in case where there is no constable in his district, either from death, removal or otherwise, authorise some person to execute the duties of constable until such vacancy is filled.

In case of vacancy any justice may appoint a constable till filled.

Sec. 3. *And be it further enacted,* That it shall be the duty of the constables of the several counties to serve all warrants, summons, executions and other process to them directed by any lawful authority, agreeable to the tenor thereof, and make due returns of the same, and if any constable shall fail to execute and make returns, or to pay to or account with any person for whom he may have received money, or to return the same to the justice issuing the warrant or execution, within ten days after the receipt thereof, the person so injured as aforesaid may, upon application to any justice within the district, obtain a warrant against him; and such justice shall, upon proof

Their duties.

thereof. award judgment and execution for the same, and all costs against such constables, and also fine him for such abuse, in a sum not exceeding ten per cent. on the amount so withheld; and in case of neglect or refusal to serve and return any warrant or summons as aforesaid, may fine the constable so offending in a sum not exceeding the sum due by the defendant.

Constable to take
forth-coming
bonds, &c.

but in case of ne-
glect or refusal,
the constable to
take care of prop-
erty taken in
execution, and
to receive an al-
lowance there-
for.

Further duty of
constables in sel-
ling property
under execution.

Proceedings on
forth-coming
bonds.

Sec. 4. *And be it further enacted*, That where any property shall be taken by a constable by virtue of his office, he may, on the person or persons (from whom such property may be taken) giving bond with approved security for the delivery of such property on the day of sale, suffer it to remain in the hands of the debtor, but when such person or persons shall not be able, or shall refuse to give such security in either case, and the property consisting of live stock, the constable shall take care of the same, and an allowance shall be made him out of the sale of such property, to be adjudged of by the justice to whom such execution is returned, and the constable shall be allowed twenty-five cents for taking such bond; and there shall not be more than fifteen days between the constables executing and selling any property taken by virtue of an execution; the constable shall give ten days notice, at least, of such sale by advertising at the most public place or places in the neighborhood, of the time and place of such sale, where the person or persons may render, from whom such property is taken.

Sec. 5. *And be it further enacted*, That when a bond shall be given for the delivery of property and the same shall not be delivered at the day of sale, agreeable to the tenor of said bond, the constable shall return the bond to the justice who issued the execution. And it shall be the duty of the said magistrate, on the application of the

plaintiff or his agent, to issue a new execution on the said bond, on which new execution the constable shall be entitled to the same fees, as he was entitled to on the service of the first execution, and there shall be no security taken: *Provided*, That nothing in this act contained shall relate to the office or duties of constables appointed or that may be appointed by the corporation of the city of Natchez.

Provisions of this act not to relate to the constables in the city of Natchez.

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, February the 1st, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

Empowering Courts of Equity to proceed against absent defendants.

Sec. 1. **BE** it enacted, by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened; That if the defendant in any suit in equity against whom *subpæna* or other process may issue, shall not cause an appearance to be entered within such time and in such manner as by the rules of the court the same ought to have been entered, in case such *subpæna* or other process had been duly served, and affidavit being made that such defendant resides beyond the limits of the Territory, or that upon enquiry at his usual place of abode, he could not be found so as to be served with such process, and that there is just cause to believe that such defendant is gone without the limits of the

Absent defendants how to be proceeded against.

On failure to appear according to the rules of court,

and affidavit of defendant's absence from the Territory, or absconding,

Court to make an order, directing such defendant to appear,

to be published in some Gazette of the Territory, &c.

and at discretion of the court, in that of any state; and in case of failure to appear, &c. on due proof of publication as aforesaid, bill may

be taken *pro confesso*, and court decree, &c.

Provido,

Complainant to give security to abide such order, touching the restitution of estate to be affected by any such decree the court may make, on defendant's appearance.

Proceedings on appearance in the Territory of non-resident defendants within two years after decree,

Territory or otherwise absconded to avoid being served with such *subpœna* or other process, then in either case, the court may make an order directing such defendant to appear at a certain day therein named; a copy of which order shall be published within forty days thereafter in some Gazette regularly published in this Territory, for such space of time as the court shall direct, and shall within the time aforesaid, be posted up at the door of the court house where made; and said court may, at their discretion, direct such order to be published in any Gazette in the United States, and for such space of time as they may deem reasonable; and if the defendant do not appear within the time limited by such order, or within such further time as the court shall appoint, then, on due proof of publication as aforesaid, the court may order the plaintiff's bill to be taken *pro confesso* and make decree thereon and carry such decree into full effect as in other cases: *Provided*, That proceedings in equity against absent defendants, and decrees made on such proceedings, shall be subject to the restrictions, limitations, and provisos hereinafter mentioned.

Sec. 2. *And be it further enacted*, That the complainant shall, before obtaining any decree by virtue of the aforesaid section of this act, give good and sufficient security in such sum as the court may direct, to abide such order, touching the restitution of the estate or effects to be affected by such decree as the court may make concerning the same, on the appearance and petition of the defendant to have said cause reheard; and if any decree shall be made in pursuance of this act against a person residing without the limits of the Territory, at the time of pronouncing such decree, and such person shall, within two years after making the same, reside within the Territory or be

come publicly visible therein, then such defendant shall be served with a copy of such decree in a reasonable time after such residence or public appearance be known to the complainant, and in case such defendant depart this life within two years after making such decree, and before the service of such copy, then if the heir of such defendant shall have any real estate, whereof possession shall have been given to the complainant, and such heir may be found, or if such heir be a *feme covert* infant or person *non compos mentis*, the husband or guardian of such heir, or if the personal estate of such defendant shall have been levied on, or possession thereof given to the complainant, then the executor or administrator, if any such there be, shall be served with a copy of such decree, within a reasonable time after the death of the defendant, and his heirs, executors or administrators in this Territory shall be known to the complainant.

to be served with a copy thereof,

or in case of such defendant's death in that time,

on the heir being *feme covert*, infant, or person *non compos mentis*, or on executors or administrators, and being known to the complainant.

Sec. 3. *And be it further enacted*, That if any person or persons served with a copy of such decree shall not within twelve months thereafter appear and petition to have the cause reheard, such decree made as aforesaid shall stand absolutely confirmed against the person or persons served with a copy as aforesaid, his, her, or their heirs, executors or administrators, and all persons claiming under him, her or them, by virtue of any act done after the commencement of the suit.

Such decree, in case of such person's failing to appear and petition within 12 months after notice thereof, to stand confirmed.

Sec. 4. *And be it further enacted*, That if any person served with a copy of such decree as aforesaid, shall, within twelve months thereafter, or if any person, not so served, shall, within three years after pronouncing such decree, appear and petition to be heard touching the matter of such decree, and pay the costs of suit, such person or persons, his, her, or their representative, or any person claiming under him, her, or them, by virtue of

Such persons, upon such notice, may, within one year, or without notice may, within 3 years, upon payment of costs of suit, answer the bill, &c.

any act done before the commencement of the suit, may be admitted to answer the bill and such proceedings had as if no decree had passed.

Or, if not, such
decree so made
shall stand con-
firmed.

Sec. 5. *And be it further enacted*, That if any person or persons against whom such decree shall be made, his, her or their heirs, executors or administrators shall not within three years next after making such decree, appear and petition to have such cause reheard and pay costs of suit as aforesaid, such decree made as aforesaid shall stand absolutely confirmed against the defendant or defendants; his, her or their heirs, executors and administrators, and against all persons claiming or to claim by, from or under him, her or them, or any of them, by virtue of any act done or to be done subsequent to the commencement of such suit. *Provided* this act shall not be so construed as to authorize proceedings against persons residing out of the Territory unless the ground or cause of action, or the transaction on which the bill may be brought, took place within the Territory.

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, February the first, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

Supplemental to an Act entitled "An Act to establish a permanent site of Justice for the District and County of Adams."

Sec. 1. **BE** it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That the

commissioners appointed by the above recited act, be and they are hereby appointed commissioners for receiving the court-house and other public buildings, erecting in the county of Adams by virtue of said act.

Commissioners appointed by the former act authorized to receive court-house, &c.

Sec. 2. *And be it further enacted,* That the said commissioners, or a majority of them, on ascertaining that the said court-house and other public buildings have been completed agreeably to contract, shall certify the same to the county court of Adams, whose duty it shall be to give to the party or parties building the same, a draft or drafts on the county treasurer for the sum of four thousand dollars, the compensation agreed on for erecting said buildings, to be paid out of any monies he may have in his hands not otherwise appropriated.

When public buildings completed, commissioners to certify the same to county court of Adams, who are authorized to give the builders a draft for 4000 dollars,

Sec. 3. *And be it further enacted,* That in order to reimburse the said four thousand dollars, the county court of Adams, at any time after the passing of this act, are hereby authorized and required to levy for the use of said county, a tax for two years, adequate to the reimbursement of a moiety of the aforesaid four thousand dollars in each year, to be levied, collected and accounted for in the same manner as other taxes for said county.

and to levy a county tax for two years to reimburse the same

Sec. 4. *And be it further enacted,* That so much of the before recited act as is not consistent with the provisions of this act, shall be and the same is hereby repealed.

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, February the 1st, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

*To establish a Town in Washington County, by the
name of Wakefield.*

Preamble.

WHEREAS Richard Brashears has laid out a town on the lands of said Brashears, whereon the court-house now stands in said county, and it being necessary that the same should be established and regulated by law :

Town of Wake-
field established.

Sec. 1. *BE it therefore enacted by the Legisla-
tive Council and Ho se of Representatives of the
Mississippi Territory, in General Assembly convened,*
That said town shall be known and distinguished
by the name of "Wakefield," and is hereby estab-
lished agreeably to the present plan, a copy of
which said proprietor is hereby required to file in
the clerk's office of the county of Washington,
within six months after the passing this act.

Trustees.

Sec. 2. *And be it further enacted,* That John
Armstrong, George Brewer, jun. James Denby,
sen. Edward Craighton and Thomas Bassett, be,
and they are hereby appointed commissioners for
the regulating of said town of Wakefield, vested
with full power and authority for that purpose.

PHILANDER SMITH, *Speaker*

of the House of Representatives.

JOHN ELLIS, *President of the Legisla-
tive Council.*

APPROVED, February the 1st, 1805.

CATO WEST, *Secretary of the Missis-
sippi Territory, acting as Governor of the same.*

AN ACT

For the relief of Nicholas Perkins.

BE it enacted, by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That the territorial treasurer be, and he is hereby authorised and required to pay unto Nicholas Perkins, or his attorney, the sum of seventy dollars, as compensation for his services as a member of the House of Representatives of this Territory, in lieu of two drafts, one for twenty and the other for fifty dollars, dated November 19th, 1803, which drafts the said Perkins has lost; and said sum shall be in full discharge of said drafts therein mentioned.

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, February the first, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

Providing for the erection of a Gaol in Jefferson County, at Greenville.

Sec. 1. **BE** it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That the justices of the county court of Jefferson be authorised and required, at their first term after the passing of this act, to levy a poll tax on every free male inhabitant of full age, resident within said county on the first day of January last, not less than fifty cents nor more than one dollar, and also levy a county

County court to
levy a tax, &c.

tax, according to the directions of the several acts of assembly, providing for the raising of a revenue, which, together shall amount to a sum not less than three thousand five hundred dollars, nor exceeding four thousand, to be collected by the sheriff and paid into the hands of the commissioners herein after mentioned, for which he shall receive the same per cent. as for other collections.

Commissioners
appointed & con-
tract for, and

superintend the
building of a
gaol.

When to meet
first.

When gaol to be
completed.

Sec. 2. *And be it further enacted,* That Drury W. Brazeale, James Stuart, Thomas M. Green, Henry D. Downs and Thomas Calvit, be, and they are hereby appointed commissioners, and they, or a majority of them, are hereby vested with full power and authority to contract for and superintend the building of said gaol; and said commissioners shall hold their first meeting at Greenville, on the first Monday in March next, and said gaol shall be completed on or before the first of January next succeeding.

PHILANDER SMITH, *Speaker
of the House of Representatives.*

JOHN ELLIS, *President of the
Legislative Council.*

APPROVED, February the 21st, 1805.

CATO WEST, *Secretary of the
Mississippi Territory, acting as
Governor of the same.*

AN ACT

*To establish a Town in Jefferson County, by the
name of Greenville.*

Preamble.

WHEREAS a town has been laid out on the lands of the executors of David Odem, dec. the lands of Abijah Hunt, and the lands of Ferdinand L. Claiborne, adjoining the court-house of

Jefferson county, and it being necessary that the same should be established by law: Therefore,

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That said town shall be known and distinguished by the name of Greenville, in memory and honor of Major-General Nathaniel Green, and the same is hereby established agreeably to the present plan; and said proprietors are hereby required to file a copy of said plan in the clerk's office of Jefferson county, within six months after the passing of this act.

Town of Greenville established.

Sec. 2. *And be it further enacted,* That Drury W. Brazeale, Henry D. Downs, Armstrong Ellis, Robert M'Cray and Robert Cox, be and they are hereby constituted and appointed trustees for the regulation of said town, and vested with full power and authority for that purpose; and in case of the death, refusal to act, or removal from the county of any of said trustees, the survivors, or a majority of them, shall assemble, and are hereby authorized to nominate and appoint, by instrument in writing under their hands, some other person or persons, being an inhabitant and householder of said county, which said commissioner or commissioners so appointed, shall have and exercise the same powers and authorities in all matters, as the person or persons in whose room and stead he or they shall have been so appointed, had and exercised.

Trustees appointed to regulate it.

and in case of vacancy to appoint others.

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, February the 21st, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

For the relief of John Overaker.

BE it enacted, by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That the auditor of public accounts be, and is hereby authorized and required, to issue his warrant on the territorial treasury, in favor of John Overaker, for the sum of one hundred dollars, being the amount of the territorial tax and collected on one Billiard Table improperly taxed, as the property of the said John Overaker.

PHILANDER SMITH, *Speaker of the
House of Representatives.*

JOHN ELLIS, *President of the Legisla-
tive Council.*

APPROVED, February the 21st, 1805.

CATO WEST, *Secretary of the Missis-
sippi Territory, acting as Governor of the same.*

AN ACT

*To divorce Richard Claiborne and Ann Claiborne
his wife.*

AN ACT

*To divorce Alexander Bailey from Mary Bailey his
wife.*

AN ACT.

For the limitation of actions. and for avoiding vexatious law suits.

Sec 1. **B**E it enacted by the Legislative Council and House of Representatives of the Mississippi Territory in General Assembly convened, That all actions of trespass *quare clausum fregit*, all actions of trespass, detinue, trover and replevin for taking away of goods and chattels, all actions of debt, founded upon any lending or contract, without specialty, or for arrearages of rent due on a parole demise, and all actions of account, and upon the case, except actions for slander, and except also such actions as concern the trade of merchandize between merchant and merchant, their factors or agents shall be commenced within six years next after the cause of such actions shall have accrued, and not after.

Limitations of personal actions.
which to 6 years,

Sec. 2. *And be it further enacted*, That all actions of trespass for assault, menace, battery, wounding and imprisonment, or any of them, shall be commenced and sued within two years next after the cause of such actions shall have accrued, and not after.

which to 2 years.

Sec. 3. *And be it further enacted*, That every action upon the case for words, shall be commenced and sued within one year next after the words spoke, and not after. *Provided always*, That if, if any person or persons who is, are or shall be entitled to any of the actions herein before specified, is, are or shall be at the time of any such cause of action accruing within the age of twenty-one years, *feme covert* or insane, then such person or persons may institute such action, so that the same be instituted within such time as is before limited after his, her or their coming to, or being of full age, discoverd or of sane memory.

Actions for words to one year.
Proviso.

Against sheriffs
and clerks to 5
years.

Sec. 4. *And be it further enacted.* That any prosecution, hereafter to be had, or commenced upon any bond, heretofore given by any sheriff or clerk and his securities for the faithful performance of the duties of the office of sheriff or clerk shall in no wise operate against, or in any manner affect the said securities mentioned or bound in said bond unless such prosecution shall be commenced within five years after the passing of this act, nor shall any prosecution had or commenced, upon bond hereafter to be given by any sheriff or clerk and his securities as aforesaid, in anywise operate against, or affect the said securities named and bound in either of said bonds, unless such prosecution shall be commenced within five years after the date of such bond, and not after.

Actions of debt
upon writings
under seal, &c.
to 16 years.

Sec. 5. *And be it further enacted,* That every action of debt, or covenant for rent or arrearages of rent, founded upon any lease under seal, and every action of debt, upon any single or penal bill for the payment of money only, or upon any obligation with condition for the payment of money only, or upon any award under the hands and seals of arbitrators for the payment of money only, shall be commenced and sued within sixteen years next after the cause of such action shall have accrued, and not after, but if any payment shall have been made on any such lease, specialty or award within or after the said period of sixteen years, then an action instituted on such lease, specialty or award within sixteen years after such payment, shall be good and effectual in law, and not after. *Provided always,* That the time during which the person, who is or shall be entitled to any of the actions specified in this section shall have been within the age of twenty-one years, *feme covert* or *insane*, shall not be taken or computed as part of the said limited period of sixteen years.

Proviso.

Sec. 6. *And be it further enacted,* That judgment in any court of record of this Territory, may be revived by *scire facias*, or an action of debt may be brought thereon, within twenty years next after the date of such judgment, and not alter: *Provided*, That the time during which the person who is or shall be entitled to the benefit of such judgment, shall have been under the age of twenty-one years, *feme covert*, or insane, shall not be taken or computed as part of the said limited period of twenty years.

Judgments may be revived, or action brought upon them, in 20 years.

Proviso.

Sec. 7. *And be it further enacted,* That no person who now hath, or hereafter may have, any right or title of entry unto any lands, tenements, or hereditaments, shall make any entry therein, but within twenty years next after such right or title shall have accrued, and such person shall be barred from any entry afterwards: *Provided always*, That the time during which the person who hath or shall have such right or title of entry shall have been under the age of twenty-one year, *feme covert*, or insane, shall not be taken or computed as part of the same limited period of twenty years.

Limitation of right of entry into lands, to 20 years.

Sec. 8. *And be it further enacted,* That if any person or persons against whom there is or shall be any cause of action as is specified in the proceeding sections of this act, is or are, or shall be out of this Territory at the time of the cause of such action accruing, or any time during which a suit might be sustained on such cause of action, then the person or persons who is or shall be entitled to to such action shall be at liberty to bring the same against such person or persons after his, her or their return into this Territory, and the time of such persons absence, shall not be accounted or taken as a part of the time limited by this act.

Time limited by this act not to run, where the party liable to action is absent from the Territory, &c.

Sec. 9. *And be it further enacted,* That from

ACTIONS for lands,
 &c. limited to 30
 years.

Proviso.

and after the passing of this act, every real, possessory, ancestral, mixed, or other action, for any lands, tenements, or hereditaments, shall be brought and instituted within thirty years next after the right or title thereto, or cause of such action accrued, and not after: *Provided always*, That the time during which the person, who hath, or shall have such right or title, or cause of action, shall have been under the age of twenty-one years, *if* *me* *co* *vert*, or insane, shall not be taken or computed part of said limited period, also that nothing in this act contained shall be so construed as in any wise to affect or interfere with the primary disposal of the vacant lands of the United States within this Territory.

In case of reversal,
 or arrest of
 judgment, plain-
 tiff, &c. may re-
 new his action in
 one year after.

Sec. 10. *And be it further enacted*, That if in any of the said actions specified in any of the preceding sections of this act, judgment be given for the plaintiff, and the same be reversed by writ of error, or if a verdict pass for the plaintiff, and upon matter alledged in arrest of judgment, the judgment be given against the plaintiff, then the said plaintiff, his or her heirs, executor, or administrators, as the case shall require, may commence a new action within one year after such judgment reversed or given against the plaintiff, and not after.

PHILANDER SMITH, *Speaker*

of the House of Representatives.

JOHN ELLIS, *President of the*

Legislative Council.

APPROVED, February the 2d, 1805.

CATO WEST, *Secretary of the*
Mississippi Territory, acting as
Governor of the same.

AN ACT

Concerning the County Courts of Washington County.

Sec 1. **BE** it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That the county courts of Washington county shall not hereafter have any jurisdiction at common law for the recovery of any debt or damages in the determination of which a jury may be necessary, and no jury shall be hereafter returned to said county court, and all such suits now depending in said court shall immediately be transferred into the said superior court of Washington district in the same state in which said suits now are in said county courts, and tried and determined in said superior court, and judgment therein entered, execution awarded as if originally commenced in said superior court, and the said superior court shall have jurisdiction and cognizance of all actions and suits in which the value of the matter in controversy shall exceed twenty dollars, any law or usage to the contrary notwithstanding.

Jurisdiction as to causes triable by jury taken from that county court,

no jury to be hereafter returned to it,

Jury causes in it to be transferred to superior court of Washington district, &c.

said superior court to have jurisdiction in all actions for demands over 20 dollars.

Sec. 2. *And be it further enacted*, That it shall not be lawful for any attorney under this act to demand or receive any greater fees for his services than are allowed by law in the county courts for like services, except the sum for which the suit is brought shall exceed two hundred dollars.

Attornies' fees same as heretofore for sums under 200 dollars.

Sec. 3. *And be it further enacted*, That this act shall commence and be in force from and after the arrival of the judge of the superior court in the district of Washington. JOHN STEELE, *Speaker of the House of Representatives, pro tempore.*

Commencement.

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, February the 22d, 1805,

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

*To divorce Henry D. Downs from Polly Wills Downs
his wife.*

AN ACT

*Supplemental to an act, entitled "An Act appoint-
ing Commissioners for the purpose of establishing
a permanent seat of Justice in the county of Wash-
ington, and for other purposes."*

Preamble,

WHEREAS the Commissioners appointed by
said act have refused to carry the provisions there-
of fully into effect: Therefore,

*other. commisi-
oners appointed
in lieu of the first,*

their duties,

Sec. 1. BE it enacted by the Legislative Council
and House of Representatives of the Mississippi Ter-
ritory, in General Assembly convened, That in lieu
of the said commissioners, Thomas Malone, Ni-
cholas Perkins, Richard Lee, Richard Brashears,
and William H. Hartgrove be, and they are here-
by appointed, authorized and required to contract
for the finishing of the court-house, gaol, stocks
and pillory in said county of Washington, super-
intend the same, and make all such alterations or
additions therein as they shall deem expedient and
proper.

PHILANDER SMITH, *Speaker of the
House of Representatives.*

JOHN ELLIS, *President of the Legislative
Council.*

APPROVED, March the first, 1805.

CATO WEST, *Secretary of the Mississippi
Territory, acting as Governor of the same.*

AN ACT

*Concerning Executions in the county and district
of Washington.*

WHEREAS the navigation of the Mobile river is frequently obstructed so that the Citizens of Washington county experience great difficulty in getting their produce conveyed to market, which, with the peculiar situation of that county, closed in, on all sides, by Indian nations, or a foreign government, render the citizens thereof unable to comply with their contracts, arising from the entire want of circulating medium; and whereas a petition from the citizens of said county stating these circumstances and praying redress, has been presented to the legislature: Therefore,

Preamble.

Sec. 1. *Be it enacted, by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That goods or chattels levied on, or to be levied on by virtue of any writ of fieri facias, or venditioni exponas issued or to be issued in the county court of Washington county or superior court of Washington district, shall by the sheriff or other officer serving such writ of execution be advertised by posting up notifications of the time and place of the sale thereof at three at least of the most public places in the county at least ten days before the day of sale, and if such goods and chattels will not bring at such public sale three-fourths of their value in ready money as appraised on oath by one justice of the peace and two indifferent free-holders, chosen by the sheriff or other officer executing such writ of execution, then such goods and chattels shall be sold by said sheriff or other officer at such public sale for the best price at nine months credit, and said sheriff, or other officer shall take of the pur-*

Goods and chattels levied on to be advertised, &c. 10 days before day of sale.

if they will not sell for three-fourths of their value in money,

to be sold for the best price at 9 months credit

for bond and security. chafer a bond with two good and sufficient freeholders as securities, to be approved of by two justices of the peace conditioned for the payment of the amount of such sale payable to the plaintiff at the expiration of said nine months with lawful interest from the date. And said bond shall be returned with such execution in satisfaction thereof and in lieu of so much money.

Sec. 2. *And be it further enacted,* That any person taken or to be taken in execution on a *capias ad satisfaciendum*, issued, or to be issued on a judgment obtained, or to be obtained in said county of Washington, shall be released therefrom on giving bond with two good and sufficient securities for the amount of the debt and damages; the said securities to be approved of as aforesaid, and the defendant paying down the costs of suit.

Sec. 3. *And be it further enacted,* That this act shall continue in force one year from the passing thereof, and no longer.

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 1st, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

For the appointment of an Auditor of Public Accounts, ascertaining his duties in office, and for other purposes.

Sec. 1. **BE** it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That there shall be

appointed by the governor of this Territory, for the time being, an auditor of public accounts, who, before he shall be qualified to act, shall take an oath impartially and honestly to discharge the duties of his said office, and shall give bond, with two or more sufficient securities, payable to the governor, for the time being, and his successors in office, in the penal sum of five thousand dollars, conditioned for the faithful discharge of the duties of said office.

Auditor to be appointed,

to take an oath, &c.

give bond and security.

Sec. 2. *And be it further enacted,* That it shall be the duty of said auditor, to examine, settle, and audit, all accounts claims, or demands whatsoever against the Territory, arising under any law or resolution of the legislature, and to grant to every claimant authorized to receive the same, a warrant on the territorial treasurer, under his hand and seal of office, making due entry and register of all his proceedings, in a book to be kept for that purpose, and carefully arranging, filing and preserving in his office, all accounts, receipts, vouchers and papers touching the same; to examine, settle and audit the accounts of all public debtors, collectors of any tax or revenue levied by act of the legislature and payable to the territorial treasurer, to call upon all such debtors, to render accounts, and pay into the treasury all sums and balances due, and on their failure so to do, to institute proceedings against them at law, to require information, on oath, from any person, party or privy of any matter relative to any account under his examination, and material for his information; to state and keep the accounts so as to shew the amount of all warrants by him drawn on the treasurer, for what services, or articles of public expense, they were given, and to lay before the general assembly, annually, and as often as thereto required, the general accounts, together with an

His duties,

to audit all accounts against the Territory,

to grant warrants on territorial treasurer, &c.

account of all balances due to and from the Territory.

To decide on the official forms of all papers, books and accounts, to be observed by the revenue officers, and to have recourse to their books.

Sec. 3. *And be it further enacted*, That it shall be the duty of said auditor to decide on the official forms of all papers to be issued for collecting the public revenue, and the manner and form of keeping the accounts of persons employed therein; and the books and accounts of the treasurer and all other persons concerned in the collection or safe-keeping of the public monies or funds of this Territory, shall, at all reasonable times, be open to the examination and inspection of said auditor.

Territorial treasurer not to pay or receive any public money, but on the auditor's warrant, which are to be numbered.

Sec. 4. *And be it further enacted*, That it shall not be lawful for the territorial treasurer, to pay or receive any public money but on warrant or certificate from said auditor, who shall begin on the first day of January annually, and number each warrant for the payment of money, beginning at number one and continuing progressively until the last day of December following inclusive.

Auditor to open his office on the 1st Monday in April, 1805, to open books for the registry of all demands

Sec. 5. *And be it further enacted*, That the said auditor shall open his office on the first Monday in April next, books for the registry of all legal debts and demands of every denomination, kind or nature soever, for which any person or persons hold any warrants or certificates issued by lawful authority before the said first day of April next, and chargeable on the territorial treasury, or the county treasury of any county in this Territory, and file and preserve in his office the warrants and certificates so taken up; and where any warrant or certificate shall appear to have been issued by any particular county, and chargeable on the same, said auditor shall deliver to the owner or bearer of such warrant or certificate a certified copy thereof, which certified copy shall authorize him or her holding the same, to draw the amount specified

when against the Territory and counties,

to file all warrants and certificates, filed in his office before the 1st of November next, and in lieu thereof, to give the owner or bearer, appropriate warrants on the territorial and county treasuries.

therein out of the treasury of the proper county, and where the demand shall appear to be of a general nature, and against the Territory, of which description shall be considered, all debts and demands which have been incurred for apprehending, securing, supporting or prosecuting criminals within this Territory, as well as all other demands where the Territory generally is concerned, the said auditor shall issue his warrant on the territorial treasurer in favor of the holder or bearer for the amount called for in any such warrant or certificate; and said books shall be kept open for the purpose aforesaid, until the first day of November next; and any person who shall refuse or neglect to exhibit such debt or demand into the office of the auditor, on or before said first day of November next, shall, from and after that day, be forever barred and excluded as a creditor of this Territory, or of any county therein. And it shall be the duty of said auditor to report and state to the legislature at their first session next succeeding said first day of November the nature and extent of said claims. And it shall be the duty of each county treasurer to state to said auditor on or before said day the amount of all taxes theretofore assessed and collected in his county, and all monies that may have come into his hands as treasurer, and the disbursements thereof, which accounts and statements said auditor shall also report to the legislature of this Territory.

Persons refusing to exhibit to the auditor, such demand on or before said first of Nov. to be barred as public creditors.

Auditor to report to the legislature the nature and extent of such claims.

County treasurer to state to the auditor in that time, the amount of taxes theretofore assessed and collected in his county, and the amount received by him and disbursed, to be laid before the legislature.

Sec. 6. *And be it further enacted,* That the justices of the county court of each county, the chief justice of the orphans' court being one, shall in term time audit and allow on due proof, all accounts and demands legally chargeable upon their respective counties and every account or such part, and so much thereof as is so allowed shall be recorded by the clerk in a book to be kept for that

County courts to audit demands against their respective counties, and when allowed to be recorded by the clerk.

and give the claimant a warrant on the county treasurer for the amount, to be numbered and registered, & transmit to the auditor, annually, an account thereof, to be recorded by him, and reported to the legislature.

purpose, and the claimant shall receive a warrant on the county treasurer, signed by the clerk for the amount so allowed, and the clerk shall number the warrants issued as aforesaid in each year; beginning in the term first held in each year, and progressing through the same in numerical order and register the number and amount of each warrant in the aforesaid book, and transmit to the auditor of accounts annually the numbers, amounts and names of claimants of all such warrants and an abstract of the items or services for which said warrants were issued, and the result of said account shall be entered in the auditor's books and the account thereof laid before the legislature annually with his other accounts.

Auditor's salary.

To open his office on 1st April, 1805,

and to procure a seal office, &c.

Sec. 7. *And be it further enacted*, That the auditor of public accounts shall receive, in full compensation for his services, the annual salary of five hundred dollars, to be paid out of the territorial treasury without warrant, and the said auditor shall open his office and enter on the duties of the same on the first day of April next.

Sec. 8. *And be it further enacted*, That the said auditor shall procure a seal of office the legend of which shall be "Mississippi Territory Auditor's Office," also all books and stationery necessary for the use of his office, and the accounts for said seal, books and stationery shall be audited and paid to said auditor, by the territorial treasurer without warrant, and said seal and books shall appertain to said office and be delivered over by said auditor, his executors or administrators, to his successor.

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 1st, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

To amend and reduce into one the several acts concerning Public Roads, Highways, Ferries and Bridges, within this Territory.

Sec. 1. **BE** it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That all roads and ferries in the several counties of this Territory, that have been laid out or appointed by virtue of any act of assembly heretofore made, or by virtue of any order of court, are hereby declared to be public roads and ferries; and that from time to time, and at all times hereafter, the courts of the several counties in this Territory shall have full power to establish ferries, and determine the tolls of the same, and to order the laying out public roads where necessary and appoint where bridges shall be made, and to discontinue such roads as now are or shall hereafter be made, as shall be found useless, and to alter roads so as to make them more useful, as often as occasion shall require.

What roads and ferries are declared to be public.

County courts empowered to establish ferries, tolls, to order the laying out new roads, bridges, &c. and to alter them when necessary.

Sec. 2. *And be it further enacted,* That every county court within this Territory is hereby authorized and empowered to call any person or persons in their respective counties, to account for any monies such person or persons may have in his or their hands by virtue of any distress heretofore made, or may hereafter be made, for default of working on any road in such county, and all such monies to receive and apply towards keeping in repair the roads and bridges on which such default was made.

County courts to call upon persons to account for monies collected under the road laws, &c.

Sec. 3. *And be it further enacted,* That all roads hereafter to be laid out, shall be laid out by a jury of free-holders, to be appointed by the county court consisting of seven persons, to the greatest advantage of the inhabitants and as little as may

Public roads how to be laid out.

be to the prejudice of inclosures; which laying out, and such damages as private persons may sustain, shall be done and ascertained by the same jury, on oath, which oath shall run in these words, to wit. I A. B. do solemnly swear, that I will lay out the road now directed to be laid out by the county court, to the greatest ease and advantage of the inhabitants, and with as little prejudice to inclosures as may be, without favor or affection, malice or hatred, and to the best of my skill and knowledge: so help me God. And all damages hereafter to be assessed shall be deemed a county charge, and be defrayed from a tax on each county to be laid for contingent charges.

Sec. 4. *And be it further enacted,* That all roads so laid out shall be deemed public roads, and shall be at least twenty feet wide, and where to the overseers of roads it may appear expedient to make or repair causeways on the same roads, they shall be at least twelve feet wide, and the earth necessary to raise and cover the said causeways shall be taken from each side of the causeway equally, and so as to form a drain on each side of the said causeway, and the overseers of roads are hereby directed to have completely cut all trees and stumps not to exceed six inches from the ground and pared round the edges in the highways, under their care, and all bridges hereafter directed to be made over small creeks, or runs, shall be twelve feet wide, as directed in the case of causeways.

Sec. 5. *And be it further enacted,* That where a bridge shall be necessary over any place, where the overseer with his assistance cannot conveniently make it, the court of that county, wherein such place shall be, is hereby empowered and required to contract and agree for the building, keeping and repairing thereof and to lay the charge on their county. And when bridges shall be ne-

Roads to be 20 feet wide.

One foot of road to make causeways 12 feet wide, &c.

To have trees and stumps cut not more than six inches from the ground and pared.

Bridges to be 12 feet wide.

Bridges how to be built.

cessary over any such creek or river which divides one county from another; the court of each county shall join in the agreement for building, keeping and repairing the same, and the charge thereof shall be defrayed by both counties in proportion to the number of taxables in each.

Sec. 6. *And be it further enacted,* That all and every contract, agreement, and order by the justices of the court of any of the counties aforesaid entered into or made for, or concerning the building, keeping, or repairing of bridges in such a manner as to them shall seem most proper, shall be good against them and their successors.

Contracts for
building bridges,
&c. to be binding.

Sec. 7. *And be it further enacted,* That the justices of the courts through whose counties run large water courses or creeks, which from the rapidity of the water and width of the stream may be too burthensome to build bridges and keep them in repair by a tax on the inhabitants; it shall and may be lawful for a majority of the justices of such county court where it may be necessary to contract with builders, to build toll bridges, or expensive causeways, for each of which, each court is hereby authorized and required to lay the toll, to be placed on all persons, horses, carriages and cattle passing over the same; and the revenue arising from which, for such a number of years as the said courts may agree upon to be granted unto the builders of such bridges, their heirs and successors for the building thereof; which bridges being built under direction of said courts, and the revenue arising from the toll thereof so granted the said builder or builders, his or their heirs or successors, shall keep in constant repair at his or their sole expence, in default of which, on conviction thereof, he or they are hereby declared to forfeit all right and title to the toll allowed by the court.

In what cases
county courts to
build toll bridges,
&c.

How regulated.

Sec. 8. *And be it further enacted,* That the jus-

County courts to
divide roads into
precincts, and ap-
portion hands.

hands not to
work more than
6 days in a year.

County courts to
appoint overseers
of roads.

their duty.

what persons to
work on roads.

Penalty on hands
for failing or ne-
glecting to work.

how recoverable

and appropriat-
ed.

tices of the respective county courts shall have power, and they are hereby required to divide the public roads into precincts or districts, direct what persons shall work on each road, and in what precinct, and so that no person shall be compelled to work on more than one road, nor more than six days in one year upon any road.

Sec. 9. *And be it further enacted,* That the courts of the several counties shall annually appoint overseers of the roads or highways, whose duty it shall be to give three days previous notice, by summons, in person, or in writing, left at their respective places of abode, to all free male persons, as well as to the owners, or overseers of all male slaves, from the age of sixteen years to fifty, residing within their respective precincts (except such persons as may be exempted from such service by law) to meet at such times and places as they may appoint, and to bring with them such tools to work with on the road as they may direct. And if any free person so summoned shall fail to attend, or send a substitute to work in his place, or if any slave so summoned shall fail to attend accordingly, or when attending shall neglect, or refuse to do and perform his or their duty therein, he or they shall forfeit and pay a fine of one dollar per day for every such failure, non attendance or refusal, to be recovered by warrant from any justice of the county and paid by the sheriff or constable to the overseer, one moiety thereof for his own use; the other moiety to be by him expended in hiring other hands to work on said road. *Provided,* That when any fine forfeited under this act shall exceed the sum of twenty dollars, the overseer shall make his return to the next county court of his proper county which shall take cognizance thereof, and shall order the same to be collected and applied as other forfeitures under this act.

Sec. 10. *And be it further enacted,* That it shall be the duty of the overseer of the road to make a list of all free persons and slaves by him summoned to work on the road, and to note thereon specially the names of such free persons, and also the names of such slaves as may fail to attend, together with the names of the owners, or overseers of such slave or slaves as may so fail to attend and perform their duty; and within three days after such failure, or non attendance, deliver a copy thereof signed with his own hand to the nearest justice of the peace, whose duty it shall be, and he is hereby required to issue his warrant or warrants against such free persons, and also against the owners or overseers of such slaves, for the fine or fines incurred by this act for such failure or non attendance. *Provided,* That no warrant shall issue within eight days after such failure or non attendance shall have happened: *And provided also,* That if any free person who shall be so returned for non attendance, or the owner or overseers of such slave or slaves as shall be so returned, shall within the aforesaid term of eight days in person or otherwise shew good cause to the satisfaction of such justice of the peace for such failure and non attendance; then, and in every such case, a warrant shall not issue.

Proceedings against defaulting hands.

Warrant not to issue within eight days after such default, in which time the party may shew cause.

Sec. 11. *And be it further enacted,* That it shall be the duty of such justice to make due return of such list or lists of delinquents, and of the warrants by him issued thereon to the next county court to be held for his county for their information, and to enable them to enquire as to the collection and due application of the fines so incurred and collected.

Justices of peace to make return of lists of delinquents and warrants to the next county court, for their information.

Sec. 12. *And be it further enacted,* That any person refusing to serve on any road as an overseer agreeable to the order of the justices of the coun-

Penalty on overseers of roads refusing to serve.

Persons appointed overseers, to notify clerk of court of the acceptance or refusal, within fifteen days, under what penalty,

proceedings in case of his refusal,

Proviso.

How overseers are to be notified of their appointment.

Clerks and sheriff's duty herein.

ty court for the county in which he resides, shall forfeit and pay the sum of forty dollars, recoverable with costs of suit before any court having jurisdiction of the same, and the said person shall notify the clerk of his proper county of his acceptance or refusal to act within fifteen days after he receives his appointment to said office under the penalty of ten dollars, to be recovered with costs of suit before a justice of the peace in the county where the offence was committed, and to be collected and applied as other forfeitures under this act, and the clerk upon receiving such notice, shall report the same to two justices of the peace of the neighbourhood where such overseer resided, who are hereby authorized and required, to appoint a successor to serve for the residue of the term, and such new overseer so appointed shall be subject to the same penalties and forfeitures as the overseers appointed by the county courts, and the fines shall be recovered and applied in the same manner as is directed in the preceding part of this act: *Provided*, That no person shall be compelled to serve as an overseer of a road in any county more than one year in three.

Sec. 13. *And be it further enacted*, That the clerk of every county court shall within ten days after the appointment of any overseer of a road, deliver a copy of the order to the sheriff of the county under the penalty of five dollars, and the sheriff within ten days after the receipt of such order, shall deliver the same to the overseer under the penalty of five dollars, and each clerk shall moreover, once in every year, fix up in his courthouse, a list of the names and precincts of all the overseers of roads in his county, under the penalty of ten dollars for every neglect.

Sec. 14. *And be it further enacted*, That it shall and may be lawful for any overseer, if required by

a majority of the workmen on the road assigned him, to lay off such road in equal apartments for the ease of the labourers, who shall finish his or their parts within the time agreed on between him, and each free person master, mistress or overseer, and on default of any agreeing party the overseer is hereby authorised to cause such part to be finished by hire of other persons to do the same, and thereon to tender his account and demand payment, and on refusal to warrant for the same, and to recover the money for his own use: *Provided* the time agreed upon shall not exceed ten days.

Overseers empowered to lay off roads in equal apartments, for the ease and at the request of labourers, &c.

Sec. 15. *And be it further enacted*, That if any person or persons whatsoever shall erect, or cause to be erected across any public road, any bar or impediment, he shall be liable to pay to any person who may sue for the same, the sum of two dollars, to be recovered before any justice of the peace, to the use of the person who may sue for the same: *Provided always*, that no gate, or any toll bridge shall be considered as liable to the fine hereby imposed; and no person shall turn, alter or change any public road, unless it be by order of the court of the county, founded upon the report of a jury appointed and sworn as in the case of laying out new roads, under the penalty of ten dollars for each month such road is turned out of the old course without an order of court, to be recovered on a warrant before any justice of the peace by any person suing for the same, and that the old road shall in no case be shut up, until the overseer shall certify to the court the new opened road is in good and sufficient repair.

Penalty for erecting impediments across public roads.

Provido.

Penalty for altering public roads contrary to law.

No old road to be shut up until the new one is certified to be open.

Sec. 16. *And be it further enacted*, That all overseers of roads who shall refuse or neglect to do their duty, as is by this act directed, or who shall not keep the roads and bridges clear and

Penalty on overseers for neglect of duty.

and to be further
liable for dam-
ages.

in good repair, or let them remain uncleared or out of repair, for and during the space of fifteen days, unless hindered by extreme bad weather, or other sufficient causes to be adjudged of by the justice, such overseer shall forfeit, for each and every such offence, the sum of five dollars, over and above such damage as may be sustained, to be recovered by a warrant from any justice of the peace, by any person taking out the same, and to be applied to his own use.

What acts re-
specting the pub-
lic roads are
deemed nuisances

Penalty for
creating them.

Sec. 17. *And be it further enacted*, That if any person shall fall a tree or brush into any public road, and shall not remove and clear away the same within twenty-four hours, or shall kill or gird a tree within the distance of fifty feet of the out edge of any public road, except within an inclosure, it shall be deemed a nuisance, and every free man of full age so offending, or the parent, master or owner of every child, apprentice, servant or slave, so offending with his or her knowledge, shall forfeit and pay one dollar for every such offence; and where any fence shall be made across any public road, the owner or tenant of the land shall pay two dollars for every twenty-four hours the same shall be continued.

Persons authoris-
ed to keep public
ferries or bridges,
receiving toll, to
give security to
the county court
of their county.

Condition.

Sec. 18. *And be it further enacted*, That from and after the passing of this act, the court of each and every county in this Territory, shall have full power and authority, and they are hereby directed and required to compel all persons that now are or hereafter shall be authorized to keep a public ferry, or who shall own a bridge receiving toll within the said counties, to give good and sufficient security, in the sum of five hundred dollars, payable to the said court and their successors, with condition that he or they shall and will constantly find, provide and keep good and sufficient boats or other proper crafts, and keep such bridges in good repair, also the banks on each side of the

water courses, as the case may be, and always to be well attended for travellers or other persons, to carry or pass their horses, carriages and effects over any river or creek, or over any such toll bridge; and if any person shall receive damages by any ferry-man or keeper of a toll bridge not having complied with the condition of his bond, the person receiving such damages, may bring an action of debt against such ferry-man or bridge-keeper on such bond, in the name of the court of the proper county, and recover for non performance of the said condition, so much damages as he, she or they shall appear to have sustained, and thereupon take out execution for whatever shall be so recovered, and apply the same to his, her, or their own use; and it shall and may be lawful for any person detained at any public ferry, by reason of the ferry-man's not having sufficient boats, or other proper crafts, and hands, or by neglecting to do his duty, by a warrant from a justice of the peace, to recover of such ferry-man the sum of ten dollars for every such default or neglect: *Provided*, That any such recovery shall not be deemed to bar any action for personal damages sustained by any person or persons by reason of insufficiency of said ferries and boats thereat, and bridges.

Liabie to the party injured, upon breach of such Condition, how proceeded against upon their bond.

Recovery upon such bond no bar to the action of the injured party for damages.

PHILANDER SMITH, *Speaker*

of the House of Representatives.

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 1st, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

Against Usury.

Interest at 6 per cent.

And if more is taken in any bond or note for money, &c. the principal only may be recovered.

If greater interest than that be taken upon any corrupt bargain &c. the whole may be recovered by the person paying the same.

Sec. 1. **BE** it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That no person or persons whatsoever shall take, directly or indirectly, for the loan of any money, wares, merchandize, or other commodity whatsoever, more than the value of six dollars for the forbearance or giving day of payment of one hundred dollars, for one year, and after that rate for a greater or less sum, or for a longer or shorter time; and if it shall be ascertained, on the plea or answer of the defendant in any suit, that more than the rate of six dollars for the forbearance or giving day of payment of one hundred dollars for one year, and after that rate for a greater or less sum, or for a longer or shorter time, be taken or received in or by any bond or note whatever, for the payment of any principal or sum of money, goods, wares, merchandize, commodity or thing whatever, bought or sold, no interest or premium whatever for forbearance, or giving day of payment, shall be allowed or received on such bond or note, but the principal sum only may be recovered.

Sec. 2. *And be it further enacted,* That if more than the rate of six dollars for the forbearance, or giving day of payment of one hundred dollars for one year, and after that rate for a greater or less sum, or for a longer or shorter time, shall be taken, accepted or received, by way of any corrupt bargain, loan, exchange, or interest of any money, wares, merchandize, commodities or other things, bought or sold, the same, together with the whole amount of interest taken, accepted or received therewith, may be recovered by any person pay-

ing the the same, by action of trespass on the case, with costs of suit.

Sec. 3. *And be it further enacted,* That the rate of six dollars for the forbearance, or giving day of payment of one hundred dollars for one year, and after that rate for a greater or less sum, or for a longer or shorter time, may be taken, allowed and recovered on all bonds and notes in writing, ascertaining the sum due, after the same is due and payable.

That rate of interest, in what cases allowable.

Sec. 4. *And be it further enacted,* That the act entitled, "An act against usury," passed the fourth day of December, one thousand eight hundred and one, be and the same is hereby repealed.

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 1st, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

Allowing Compensation to the several Public Officers therein mentioned, and for other purposes.

Sec. 1. **BE** it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That the President of the Council and Speaker of the House of Representatives shall each be entitled to receive five dollars, and each member of the Council and House of Representatives four dollars, for each and every day's attendance at the General Assembly, and shall moreover be allowed, at the commencement and end of every session four dollars

The compensation of members of the Assembly.

for every twenty miles, the estimated distance by the most usual road from the place of residence of the President, Speaker and each member respectively to the seat of government, or where the General Assembly may be convened, and in that proportion for a less distance, and in case any member of the Council or House of Representatives shall be detained by sickness on his journey to, or from any such session or meeting or after his arrival, shall, from the same cause be unable to attend the House to which he belongs, he shall, notwithstanding, be entitled to the same daily allowance.

of the Secretary
of the Council,
the Clerk of the
House of Representatives,
and
of his Engrossing
Clerks.

Sec. 2. *And be it further enacted,* That the Secretary of the Council and Clerk of the House of Representatives shall be allowed six dollars per day each; and the said Secretary and Clerk shall each be allowed (when the President of the Council and Speaker of the House of Representatives shall deem it necessary) to employ one or more Engrossing Clerks who shall be paid three dollars per day each, for every day he or they shall be necessarily employed.

of the Sergeant
at Arms.

Sec. 3. *And be it further enacted,* That the Sergeant at Arms shall be allowed three dollars per day for every day's attendance during each session, and whilst employed in the business of either House.

and of the Door-
Keepers.

Sec. 4. *And be it further enacted,* That the Door-Keeper of each House shall be allowed two dollars per day, for each day employed in the service of either House during each session.

How said com-
pensation to be
certified to the
Auditor.

Sec. 5. *And be it further enacted,* That the said compensation which shall be due to the members and officers of either House shall be certified by the President of the Council or Speaker of the House of Representatives respectively as the case may require, to the Auditor of Public Accounts,

who shall issue his warrant therefor, and the same shall be paid out of the territorial treasury: *Provided*, That the compensation of the Sergeant at Arms shall be certified by the President and Speaker.

Sec. 6. *And be it further enacted*, That the sum of three hundred dollars be appropriated for stationary, candles, firewood, and all other necessary contingent expences, not otherwise provided for, which claims being previously examined and approved by the Assembly, shall be certified by the President and Speaker, and paid out of the territorial treasury as aforesaid.

Appropriation
for contingent
expences.

PHILANDER SMITH, *Speaker
of the House of Representatives.*

JOHN ELLIS, *President of the
Legislative Council.*

APPROVED, March the 2d, 1805.

CATO WEST, *Secretary of the
Mississippi Territory, acting as
Governor of the same.*

AN ACT

*Establishing certain Courts therein named, and re-
gulating Judicial Proceedings in this Territory.*

Sec. 1. **BE** it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That the territorial judges, appointed or hereafter to be appointed in pursuance of the ordinance and laws of the congress of the United States for the government of this Territory, shall hold, in the county of Adams, twice in each year, at the place appointed by law for holding the county court of said county, a court of record, to be called and styled the "Su-

Supreme Court
of the Mississip-
pi Territory es-
tablished, and to
be held at the
place of holding
Adams county
court.

Circuit Courts
established in
each county.

preme Court of the Mississippi Territory ;” and the said judges shall moreover hold a court of record, to be called and styled the “ Circuit Court of the county of (naming the county)” twice in each year, in each of the counties of Wilkinson, Adams, Jefferson and Claiborne, at the places appointed by law for holding the county courts in said counties respectively.

One or more of
the Judges to
hold circuit
courts,

their jurisdiction.

may continue 12
days,

in absence of
Judge, sheriff to
adjourn court.

Actions, in what
county to be com-

Causes to be
brought to issue
according to rules
of court, to be es-
tablished by the
court.

Sec. 2. *And be it further enacted,* That one or more of said judges shall hold said circuit courts for the counties aforesaid respectively, and shall have full jurisdiction therein of all actions and suits, real, personal and mixed, and causes, matters and things arising under the constitution and laws of the United States, and ordinances and laws of this Territory, and all things that may be cognizable therein, according to the principles and usages of law, and shall have all the power, authority and jurisdiction in said counties respectively, of justices of assize, *nisi prius*, oyer and terminer and gaol delivery ; and each term of said circuit courts may be held for the space of twelve judicial days, if business so long continue, and no longer ; and in the absence of the judge or judges of any of said circuit courts, the sheriff of the county may adjourn the same from day to day for the space of four days.

Sec. 3. *And be it further enacted,* That all civil causes and suits to be instituted for determination before the territorial judges, shall be commenced in the circuit court of the county in which the defendant may be found, or if it be a real action, action of ejectment, or trespass *quare clausum fregit*, then in the county in which the cause of action arose ; and all causes and actions so commenced in any circuit court, shall be brought to issue according to the rules that may be ordained and established for the orderly conducting and manage-

ment of business in said courts; and if said issue be an issue in fact, the same shall be tried by the jurors attending said circuit court at the next succeeding term, if there be time for trial thereof, and the same be not continued by order of court; and all causes remaining on the docket of any said circuit courts at the rising thereof, shall be continued over of course for trial at the next succeeding term.

Causes remaining
untied, to be
continued of
course.

Sec. 4. *And be it further enacted*, That said courts and each of them, may grant judgment according to the principles and usages of law, in all cases cognizable before them, and award execution, directed to the sheriff or other proper officer of any county in this Territory, which shall be executed and returned according to the commands thereof: *Provided*, That in civil causes, demurrers, points reserved at the trial, cases stated, special verdicts, motions in arrest of judgment, and motions for new trials, may, at the discretion of the judge or judges of the circuit court, and shall, at the instance of either party, be heard and determined in the aforesaid supreme court, at their next succeeding term.

Said courts to
give judgment
and award exe-
cution.

In civil causes,
demurrers, &c.
may be heard in
supreme court.

Sec. 5. *And be it further enacted*, That at each of said circuit courts, a grand jury of a competent number of good and lawful men of the county for which such court is held, shall be returned and impanelled as herein after directed, who shall enquire and true presentment make of all crimes, offences and misdemeanors committed in their county; and thereupon the judge or judges of said circuit court is or are hereby empowered, authorized and required to try all offenders so presented, and upon legal conviction by a jury, or on confession of guilt in open court, to proceed to judgment and award execution thereon as the law directs: *Provided*, that the judge or judges of the

Grand jury to at-
tend said circuit
courts.

Proceedings of
court in criminal
cases.

Court may, on a point reserved, &c. in criminal cases, respite judgment and reserve such point for the decision of the supreme court.

circuit court may, at his or their discretion, on a point reserved, motion in arrest of judgment, or for a new trial, in any criminal case, respite the judgment or sentence, and reserve such point or motion for the consideration of the supreme court at their next succeeding term, and in such case the supreme court shall pronounce judgment, sentence or decree as the law directs, and award execution accordingly.

Clerks of county courts to be *ex-officio* clerks of circuit courts, except, &c.

Sec. 6. *And be it further enacted*, That the clerks of the county courts in each of the aforesaid counties, excepting the county of Adams, shall *ex-officio* be clerk of the circuit court of the same county, and shall, in term time, and in office, do and perform all those things that appertain to the duties of a clerk of said circuit court.

Supreme court to be held by two, at least, of the judges. Their jurisdiction.

Sec. 7. *And be it further enacted*, That said supreme court shall be held by two, at least, of said judges; but one of said judges may adjourn said court from day to day, for the space of four days; and said judges shall have full jurisdiction therein to hear and determine all causes brought before them by writ of error from any court of record in this Territory, all demurers, points reserved at the trial, cases stated, special verdicts, motions in arrest of judgment, and for new trials, reserved for their consideration at any circuit court, in either of the aforesaid counties, and to grant judgment thereon and award execution, except it be necessary in consequence of the determination of said supreme court, that facts be ascertained, or damages assessed by a jury, in which case the cause shall be remanded to the court from whence it was brought; and said judges and each of them, shall have power and authority, and are hereby authorized, to issue writs of error returnable into said supreme court; and writs of *habeas corpus*, *certiorari*, and all remedial and other writs,

returnable to the same, or to either of the circuit courts, as the case may be, and which are grantable by the judges *ex-officio*.

Sec. 8. *And be it further enacted*, That in civil causes of difficulty and magnitude, trials may, at the discretion of the circuit court, be had in said supreme court, for such reasons and under such restrictions as trials at bar are usually granted, and on affidavit that the party applying cannot as is verily believed, have a fair trial in the court in which the cause is depending, and such trials shall be by a special jury summoned and returned according to such rules as the supreme court shall ordain and establish in this behalf, so that each party shall be furnished with a list of the jurors, and have an opportunity of striking off nine, at least, of the pannel before they are summoned: *Provided*, That the costs, over and above circuit court cost, shall be paid in any event of the suit by the party applying for such trial.

Trials at bar, in what case, to be had.

Court to ordain rules of proceeding therein.

Party applying for such trial to pay the additional costs.

Sec. 9. *And be it further enacted*, That said supreme court shall have power and authority to ordain and establish all necessary rules of practice for the orderly conducting and managing of business in the said court and in the respective circuit courts, as also in the offices of the respective clerks, and to appoint days for taking rules in said offices: *Provided* such rules be not contrary to the ordinance and laws for the government of this Territory.

Supreme court to ordain rules of practice therein, and in the circuit courts, and in the clerks' offices.

Sec. 10. *And be it further enacted*, That at every term of said supreme court, the clerk of each circuit court shall attend with the records, minutes, papers and proceedings in every cause, concerning which any question is depending for determination in said supreme court; and shall also furnish to the clerk of said supreme court, a memorandum of every judgment containing the names of the parties and amount of such judgment ren-

Clerks of circuit courts to attend with their records, &c. at each term of the supreme court, and to furnish the supreme court clerk with a list of the judgments of each preceding term of the circuit courts.

dered at the preceding term of the circuit court of which he is clerk; and the clerk of said supreme court shall record the names of the parties and amounts of the judgments contained in said memorandums, in alphabetical order, in a book to be kept for that purpose.

A clerk of the supreme court to be appointed, and to be *ex-officio* clerk of Adams circuit court.

Sec. 11. *And be it further enacted*, That a person of skill and probity shall be appointed clerk of said supreme court, who shall *ex-officio* be clerk of the circuit court of the county of Adams, and shall in term time, and in office do and perform all and singular those things that do or may appertain to the duties of a clerk of said court.

Attorney General to attend supreme and circuit courts only.

Sec. 12. *And be it further enacted*, That the attorney-general heretofore appointed for the counties of Adams, Wilkinson, Jefferson and Claiborne, and his successors in office, shall not be compelled to attend the county courts of the counties aforesaid, but it shall be his duty to attend the supreme and several circuit courts established by this act.

Jurisdiction of the Judge of Washington district,

to hold a superior court therein,

appeal therefrom to supreme court.

Sec. 13. *And be it further enacted*, That the Judge appointed or hereafter to be appointed in pursuance of the act of the Congress of the United States entitled "An Act for the appointment of an additional Judge for the Mississippi Territory, and for other purposes," shall have power and authority to hold a superior court in the district of Washington, which said court and judge thereof shall have the same power, authority and jurisdiction in said district of Washington as by this act are given to the supreme court and circuit courts of the counties of Wilkinson, Adams, Jefferson and Claiborne, and the judges thereof, in said counties: *Provided*, That an appeal by writ of error, from the judgment of said superior court to the aforesaid supreme court, may be had and obtained agreeable to the provisions of the aforesaid act

of Congress of the United States: And in the absence of the judge of said superior court, the sheriff of the county of Washington, may adjourn the same, from day to day, for the space of four days.

Sec. 14. *And be it further enacted*, That a person of skill and probity shall be appointed clerk for said superior court of Washington, whose duty it shall be to do and perform all those things that appertain to the duties and office of a clerk of said court.

Clerk to be appointed for said superior court.

Sec. 15. *And be it further enacted*, That in all judgments on demurrer, confession, *non sum informatus*, or by default, in actions of debt for a sum certain, the said courts are authorized to issue executions for the sums of such judgments with such interest by way of damages as may be legally due, and cost of suit; and in all interlocutory judgments a writ of enquiry shall be awarded, and such writ of enquiry may be executed at the next succeeding term, and the damages assessed by a jury attending the court, in which they were awarded, except they be awarded in the supreme court, then to be executed at the next circuit court, in which the suit was instituted.

On judgments on demurrer, &c. in actions for a sum certain, court to issue execution for amount of judgment, with interest and costs, and in interlocutory judgments W. E. to be awarded, &c.

Sec. 16. *And be it further enacted*, That all writs, and other process, original, as well as *mesne*, in civil causes, (*subpœnas* for witnesses excepted) shall be returnable on the first day of the term succeeding the issuing of such writs, or process, and if the sheriff, or other officer shall neglect to return such process, on the first day of such term, he shall be liable as is usual on the expiration of a rule for the return of the same.

Process returnable 1st day of term.

Sec. 17. *And be it further enacted*, That in all actions to be commenced in any court of record in this Territory, and founded on any specialty, bill or note in writing signed by the defendant, or

In what cases defendants to be held to bail of course.

in what cases up-
on affidavit.

In what cases by
order of court,
judge or justice.

Executors not to
be held to bail.

Persons unlaw-
fully held to bail,
how discharged
therefrom.

on the judgment of any court, foreign or domestic, and the nature of such action endorsed on the writ, attested by the clerk, or attorney for plaintiff, setting forth the dates of such specialties, bills, notes or judgments, and the sum or sums which appear thereby secured and unpaid; the defendant or defendants, shall be held to bail of course for the sum or sums so endorsed, and in all actions of account, covenant broken, and actions founded on verbal contracts, and assumpsits in law, in which the plaintiff or other credible person can ascertain the sum or sums due or damages sustained, and either of them make affidavit thereof (to the best of his or her knowledge and belief) and the sum so sworn to be endorsed on the writ, with the clerk's signature to such endorsements or attested by any justice of the peace taking such affidavit, which affidavit in either case shall be filed in the clerk's office; and the defendant or defendants, shall be held to bail for the sum or sums so endorsed. And in actions sounding merely in damages, where the same cannot be ascertained as aforesaid, the defendant or defendants shall not be held to bail except by order of the court or some one of the judges or justices thereof upon sufficient cause shewn by affidavit, and such order, and the sum for which bail is required, be endorsed on the writ by the court, judge or justice: *Provided*, That executors and administrators when sued in such capacity, and persons sued in such penal statutes as do not expressly require bail, shall not be held to bail in such suits. And every person unlawfully held to bail may be discharged on motion to the court into which the writ is made returnable, and filing common bail. And in every action wherein bail is not required the process may be by *capias ad respondendum*, endorsed thereon by the clerk or plaintiff's attorney that no bail is required; to

which an appearance may be effected by filing common bail. And when any writ shall issue, from any of the said courts, whereupon bail is required, the sheriff or other officer, to whomsoever the same may be directed, shall take a bail bond with sufficient security or securities in the penalty of double the sum for which bail is required by the endorsement on such writ, which said bond the sheriff or other officer shall return with such writ. And in case the sheriff or other officer shall neglect to take such bond or the bail returned shall be held insufficient, on exception taken and entered the same term to which such writ shall be made returnable, the sheriff or other officer (having due notice of taking such exception) shall in either case, be deemed and stand as special bail, and the plaintiff may proceed to judgment against such sheriff or other officer as in other cases against special bail.

Sheriff to take bail bond.

In what cases sheriff, &c. to stand as special bail.

Sec. 18. *And be it further enacted,* That all bail bonds, returned to any of the said courts, shall be assigned by the sheriff or other officer returning the same by indorsement thereon, in the following form, to wit: I A. B. sheriff (or coroner as the case may be) of the county of do hereby assign the within obligation and condition to (C. D.) his executors and administrators, to be sued for according to the statute in such cases made and provided. In witness whereof I have hereunto set my hand and seal, this day of And any sheriff or other officer failing to make such assignment shall be deemed and held as special bail in the same manner as if no bail had been taken.

Sheriff to assign bail bonds,

form thereof,

or to stand as special bail.

Sec. 19. *And be it further enacted,* That where any sheriff shall return that he hath taken the body of any defendant and committed him to the prison of the county in which the arrest was made (which is hereby declared to be the proper prison for confinement) the plaintiff may enter the de-

Proceedings when the sheriff returns the defendant in custody.

defendant's appearance, and he shall be at liberty to plead as if such appearance had been entered by himself, and the plaintiff may proceed to judgment as in other cases : Nevertheless the defendant shall not be discharged out of custody, but by putting in bail or rule of court, or special order of one of the Territorial Judges.

All bail taken according to the directions of this act, shall be held and taken as special bail.

Proceedings against bail.

In case of render.

Sec. 20. *And be it further enacted*, That all bail taken according to the directions of this act, shall be deemed, held and taken as special bail, and as such be liable to the recovery of the plaintiff ; but the plaintiff shall not proceed against such bail until execution hath been returned, that the defendant is not to be found in his proper county, when the plaintiff may proceed against such bail, as is usual to proceed against special bail in other cases ; and the bail shall have liberty at any time before the return of the first *scire facias* against them, returned *scire feci*, or of the second returned *nihil*, to render the principal in discharge of his bail, on payment of costs, however, in either case of such *scire facias*. And such render, if made in term time, shall be to the court from whence the process issued, and if in the recess of such court, to the officer who made the arrest, which officer is hereby required to receive such render and execute to the bail a certificate thereof and hold the body of the defendant in custody as if no bail had been taken. And such render and commitment, duly certified to the clerk in vacation, or entry of render in open court in term time, and in either case, notice thereof given to the plaintiff or his attorney, shall discharge the bail ; and the bail shall have full power and authority to arrest the body of the principal, and secure him to enable them to render him as aforesaid : *Provided however*, That if such render be made before final judgment against the principal, the court or

sheriff to which soever such render shall be made, are hereby authorized to take the defendant's recognizance of special bail, with such other sufficient bail as he may offer ; and if taken by the sheriff, he shall file the same in the court where the suit is depending on the first day of the next term ; and the bail therein shall be liable to exception in the same manner as bail in the original bail bond ; and the bail shall have the same privileges and be subjected to a recovery in the same manner.

Sec. 21. *And be it further enacted,* That when any *scire facias* shall, by the proper officer be returned to have been made known to the bail, and they in consequence thereof shall appear, they shall not be admitted to plead *non est factum* unless they first file an affidavit of the truth of their plea : *Provided nevertheless,* That if any sheriff shall return on any *scire facias* to him directed, that the principal is imprisoned by virtue of any process civil or criminal, the court to which such *scire facias* is returnable shall on motion of the plaintiff or bail order and direct that such principal be retained, where he shall be a prisoner, until the plaintiff's judgment and cost be satisfied ; or he or she otherwise discharged by due course of law ; a copy of which order being served on the keeper of such prison before releasement shall be sufficient authority for him to retain such prisoner until such order be complied with, and shall be deemed a surrender of the principal and a discharge of the bail.

Bail not admitted to plead *non est factum* without affidavit, If on return of *scire facias* against bail, sheriff returns that the principal is imprisoned, how to be retained in discharge of his bail.

Sec. 22. *And be it further enacted,* That the sheriff of every county in the Territory shall furnish to the next county court to be held in his county after the passing this act a list of the freeholders and permanent house-holders in his county, and the said county court, together with the

The sheriffs to furnish to the next county court of their counties respectively a list of the freeholders, &c. therein.

How juries are
to be selected
from such list, for
the circuit courts,

sheriff and coroner (if he be present) shall select from such list (not excepting justices of the peace) a number of persons best qualified to serve as jurors, not less than three times the number of jurors that such county is hereafter directed to furnish to the courts hereafter mentioned ; and the names thus selected, after being entered on the records of said county court, shall be put into a box to be kept by the clerk for that purpose : And the clerk of the circuit court of each county shall not more than twenty, nor less than twelve days before the sitting of the circuit court in such county furnish the sheriff thereof with a *venire facias*, for the number of jurors which are by law to be returned to such court ; and on the receipt of such *venire facias*, the sheriff shall repair to the office of the clerk of said county court, and in the presence of the clerk and one justice of the peace, shall draw one by one from the jury box, after the names are shaken together by the clerk, the number of jurors required by the *venire*, whom he shall summon to attend the next circuit court for the county to which they belong, according to the commands of the said *venire facias* ; and the clerk of the superior court for the district of Washington shall in the same manner, and under the same limitations and restrictions as to time, issue a *venire facias*, to the sheriff of the county of Washington for the number of jurors, which by law are to attend said court, and the said sheriff shall draw the jurors required, and summon them to attend said court, in the same manner as is before prescribed to the sheriff of the other counties in this Territory. And every juror who, being summoned as aforesaid shall not attend accordingly, shall be liable to a fine not exceeding twenty dollars, unless good cause be shewn on or before the return of a *scire facias* for his non attendance.

and how for the
superior court of
Washington dis-
trict.

Fine on jurors for
non attendance.

Sec. 23. *And be it further enacted,* That from the whole number of jurors attending and summoned as aforesaid, shall be drawn by lot a number not less than thirteen, who shall constitute the grand jury for the term of the court, to which they are summoned; and the residue shall serve as traverse jurors during such term; *Provided,* that traverse jurors, when the title of land is in issue, shall be entirely of freeholders; *Provided also,* That when for challenges or other causes, there shall be a defect of jurors, the sheriff or his deputy shall by order of the court return jurors *de talibus circumstantibus*, sufficient to complete the pannel, but if the sheriff be interested the *tales* shall be returned by such disinterested person as the court shall appoint.

Grand Juries
how constituted,

remainder to
serve as traverse
jurors, who shall
be free-holders,
when the title of
land is in issue,

Jurors *de talibus
circumstantibus*
to be summoned
when necessary,

Sec. 24. *And be it further enacted,* That immediately after the sheriff shall have drawn from the jury box the number of jurors required by the *venire*, he shall put the names so drawn into another box, to be kept by the clerk of the county court for that purpose, where they shall remain till another set of jurors shall be drawn for the court succeeding that for which the first set were returned, and then the first shall be immediately returned to the box from whence they were drawn, and in the same manner with every set that may be drawn. And said boxes shall be furnished at the expence of the county, and secured with sufficient locks, to which no person but the clerk and sheriff in executing the *venire*, shall have access, and if the clerk or sheriff put into said box or either of them any other name or names than those ordered by the court, or take out any that were selected as jurors by the court, or permit any other person to do the same, except as is herein before directed, or if such clerk or sheriff shall use any fraud, collusion or partiality in drawing jurors as

Further duty of
sheriff in drawing
subsequent juries,
and in disposing
of the names of
the preceding jury,

Boxes for holding
the names of jurors
how provided,
and by whom
to be kept.

aforesaid, such clerk or sheriff shall be deemed guilty of a contempt of the court to which the jury is returned, and shall be punished accordingly.

In every two years sheriff to furnish new lists of free-holders to county courts.

Proceeding of courts hereupon, in selecting jurors.

Sec. 25. *And be it further enacted,* That once in every two years, the sheriff of each county shall furnish the county court of his county with a new and correct list of all free-holders and permanent house-holders in his county at the time of making such list, which shall be within one month before the sitting of said court to which it may be furnished, and the court, together with the sheriff and coroner (if he be present) shall proceed to a new selection of jurors as on the first list, and shall make a record thereof in the same manner, and put into the jury box all additional names then selected, and take out all such names as are left out of the then selection.

Number of jurors to be furnished by respective county courts to the superior and circuit courts.

Sec. 26. *And be it further enacted,* That the county of Washington shall furnish to each term of the superior court of Washington district, thirty-six jurors, and the county of Wilkinson to each term of the circuit court of Wilkinson county thirty jurors, and the county of Adams to each term of the circuit court of Adams county thirty-six jurors, and the county of Jefferson to each term of the circuit court of Jefferson county thirty-six jurors, and the county of Claiborne to each term of the circuit court of Claiborne county thirty jurors.

Time of serving and executing writs as at common law.

Copy of writ, but not of declaration, to be left with the defendant.

Sec. 27. *And be it further enacted,* That the time of serving and executing writs and process returnable into any of said courts, shall be as at common law; and hereafter it shall not be necessary that any declaration or copy thereof accompany such writ or process, but a copy of such writ shall be left with the defendant at the time of serving and by the officer serving the same.

Sec. 28. *And be it further enacted,* That the statutes of England for amendment of the law, commonly called the statutes of Jeofails, down to the sixteenth year of George the third, be and the same are hereby adopted and declared to be in force in this Territory.

Statutes of
Jeofails adopted.

Sec. 29. *And be it further enacted,* That for taking the testimony of witnesses in all causes which may be depending in any of the courts of this Territory, the following rules shall be observed and put in practice, to wit: In all suits where witnesses are to appear at any of said courts, the clerk, at the request of the party, shall issue a *subpæna*, directed to the sheriff or other officer of the county where such witness or witnesses are said to reside, mentioning the time and place for his, her or their appearance, the names of the parties to the suit wherein the testimony is to be given, and the party at whose instance such witness or witnesses is or are summoned; every *subpæna* made returnable immediately, shall be issued only in term time, and shall be personally served on the witness or witnesses therein named; a copy of every *subpæna* issued by the clerk in the vacation, in case the witness or witnesses therein named is or are not to be found, may be left at their usual places of residence, and such copy certified by the sheriff or other officer left as aforesaid, shall be deemed a legal summons, and the person or persons therein named shall be bound to appear in the same manner as if personally summoned.

Rules for taking
testimony of wit-
nesses.

Sec. 30. *And be it further enacted,* That every witness being summoned to appear at any of said courts in manner as herein before directed, shall appear accordingly and continue to attend from term to term until discharged by the court or the party at whose instance such witness shall be summoned; and in default thereof shall forfeit and

Witnesses to at-
tend until dis-
charged.

Penalty for ne-
glect.

Proviso.

Witness entitled to tickets.

Penalty for false swearing to obtain ticket.

Witness may be excused for non attendance upon good cause shewn.

pay to the party at whose instance the *subpœna* issued, the sum of one hundred dollars, to be recovered by *scire facias*, with cost, and shall be further liable to the action of such party for the full damages which may be sustained for want of such witness's testimony : *Provided always*, That if it shall so happen, that the suit so depending shall in the vacation be accommodated and settled by the parties, and the party at whose instance such witness was summoned shall neglect or omit to discharge him or her from further attendance, and he or she for want of such discharge shall attend at the next term, then and in that case, the witness, upon oath made of the facts, shall be entitled to a ticket from the clerk in the same manner as other witnesses, and shall receive from the party at whose instance he was summoned, the same allowance which by this act is given to witnesses for their attendance at the said court, with costs ; *Provided also*, That if any witness shall hereafter swear falsely in order to obtain a ticket, he shall, upon conviction, be adjudged guilty of perjury, and suffer as in cases of corrupt and wilful perjury : *And provided further*, That if sufficient cause be shewn by the person so summoned and failing to appear, of his or her incapacity to attend at the time and place mentioned in the *subpœna*, then no forfeiture or penalty shall be incurred by such failure.

Depositions of witnesses, in what cases and how to be taken, of absent, infirm and aged witnesses.

Sec. 31. *And be it further enacted*, That when any person who may be a witness in any cause in any of the said courts, shall reside out of this Territory, or shall, by reason of age or bodily infirmity, or any other cause, be incapable of attending to give his or her testimony in court, oath thereof being made before any judge or justice of the court wherein such suit is depending, such judge or justice is hereby empowered to order the

clerk of the court wherein such cause is depending, to issue a commission to one or more persons to take and receive the deposition of such witness; which being duly taken and returned as herein after directed, shall be received as legal testimony: *Provided always*, That the party praying such commission shall give such notice to the adverse party of the time and place when and where such commission is to be executed, as the court, judge or justice shall think proper, and the adverse party shall have liberty to cross-examine any witness whose deposition shall be so taken.

Sec. 32. *And be it further enacted*, That if any person who may be a witness in any cause depending in any of said courts, shall be under necessity of leaving this Territory before such cause is to be tried, or even before it be at issue, upon oath thereof being made before any judge or justice of the court wherein the cause is depending, such judge or justice is hereby empowered to order the clerk of the court wherein such cause is depending, to issue a commission to one or more persons to take the deposition of such witness, such notice being first given to the adverse party of the time and place, when and where such deposition is to be taken, as the judge or justice awarding such commission shall direct, which deposition when returned, taken in manner aforesaid, shall be received as legal evidence: *Provided*, That the people called Quakers, shall have liberty to give their testimony by way of solemn affirmation in all cases whatsoever, criminal as well as civil: *And provided also*, That in any case depending as aforesaid, either party wishing to improve the testimony of witnesses absent from the Territory, may take the same by interrogatories, the party making oath before any one of the judges or justices of the court wherein such cause is depending, of

Of witnesses absent to leave the Territory before trial of the cause.

Quakers may affirm.

Depositions of absent witnesses may be taken by interrogatories.

the absence of such witness, and that he believes his testimony material, such judge or justice may order the clerk of the court in which such cause is depending, to issue a commission as aforesaid, directing the commissioner or commissioners to call the witness or witnesses, before him or them, at a time and place by him or them to be appointed; but the party applying for such *dedimus* shall file his interrogatories in the clerk's office, and serve the opposite party with a copy thereof, with notice of the day on which such *dedimus* will issue at least ten days before the same shall issue, in which time the opposite party may file his cross interrogatories; and the interrogatories, and cross interrogatories, (if any there be) shall accompany such *dedimus*, and if any deposition taken by interrogatories shall contain any testimony but the answers to such interrogatories, such surplusage shall not be read in evidence. And all depositions shall be considered as taken *de bene esse*.

Penalty on witnesses in criminal cases failing to attend, &c.

Sec. 33. *And be it further enacted*, That every witness being summoned to appear in any of said courts on a criminal prosecution or plea of the Territory shall appear accordingly and continue to attend from day to day until discharged by the court, the attorney for the Territory, or the party at whose instance he shall be summoned; and in default thereof shall forfeit and pay the sum of one hundred dollars for the use of the Territory, or the party summoning him, as the case may be, unless, on or before the return of a *scire facias* made known, sufficient cause be shewn for such failure.

In what cases witnesses attending court, are privileged from arrest, &c.

Sec. 34. *And be it further enacted*, That during the attendance of any person, summoned to attend as a witness in any court whatsoever, and during the time that such person is going to, and returning from the place of such attendance, al-

lowing one day for every twenty-five miles such witness has to travel to, and return from his place of residence, no sheriff or other officer shall serve or execute on any person so attending, going to or returning from such court, any writ or process, warrant, order, judgment or decree in any cause, (summons for witnesses excepted) and if any such be executed the service thereof shall be, and is hereby declared null and void.

Sec. 35. *And be it further enacted*, That for every mile any witness shall travel either going to, or coming from the court to which such witness shall be summoned to appear, there shall be paid to him by the party at whose instance the *subpœna* shall have issued, four cents *per* mile, together with the necessary ferriages, and one dollar *per* day for every day he shall attend until he shall have given testimony or shall be discharged: *Provided*, That in any bill of costs there shall not be allowed the charges of attendance of more than two witnesses to any one matter of fact. And the clerks of the several courts, are hereby empowered and directed to take probate of evidence tickets upon oath, and certify the same.

Witnesses' compensation, &c.

Charge of not more than two witnesses to one fact allowed. Witness tickets how proved and certified.

Sec. 36. *And be it further enacted*, That if any sheriff or other officer hath or shall make any return upon any writ of *fiat facias*, *levari facias*, or *venditioni exponas*, that he hath levied the debt, damages and costs, or fees, as in such writs required, or any part thereof, and hath not nor shall not pay the same into the proper office, or to the party to whom the same is payable or his attorney at the return of such writ, or hath or shall return upon any writ of *capias ad satisfaciendum*, that he hath taken the body or bodies of any defendant or defendants, and hath the same ready to satisfy the money or other matter in such writ mention-

Sheriffs, how liable, and to be proceeded against for not paying over money, &c. collected on execution, and for escapes of defendants in execution, both while in and when out of office.

ed, and shall actually have received the money, or other matter from the defendant or defendants, or any part thereof, or suffered him, her or them to escape, with consent of such sheriff or other officer, and hath not, or shall not pay the same into the proper office, or to the party, to whom the same is payable or his attorney, then in either of the said cases it shall and may be lawful for the creditor, at whose suit the *fieri facias*, *levari facias*, or *venditioni exponas*, or *capias ad satisfaciendum*, hath or shall issue upon motion made in the court from whence such writ issued, or in the supreme court, to demand judgment against such sheriff or other officer for the money or other matter mentioned in such writ, and such court is hereby authorised and required to give judgment accordingly for the same with costs, and to award execution against the goods, chattels, lands and tenements of such sheriff: *Provided*, such sheriff have five days previous notice of such motion; and where it shall so happen that the time of any person's sheriffalty shall be expired or he shall be removed from office, before such motion by the creditor or creditors, the same remedy, proceedings and relief shall and may be had against him, as if such person were actually in office, any thing to the contrary notwithstanding.

Affidavit required
to pleas in abate-
ment.

Sec. 37. *And be it further enacted*, That no plea in the abatement shall be received in said courts except accompanied with an affidavit of the truth of such plea, or the truth of it otherwise appear.

Defendant allow-
ed to plead sever-
al pleas.

Proviso.

Affidavit required
to plea of *non est*
factum.

Sec. 38. *And be it further enacted*, That the defendant in any case may plead as many several matters as he may judge necessary to his defence: *Provided* he be not admitted to plead and demur to the whole; *And provided also*, That no plea of *non est factum* shall be admitted to be plead,

but when accompanied with an affidavit of its truth.

Sec. 39. *And be it further enacted,* That in all civil actions, the party in whose favor judgment shall be given, or in case of non suit, dismissal or discontinuance, the defendant shall be entitled to full costs, except when it is or may be otherwise directed by law.

Judgment to carry costs, except &c.

Sec. 40. *And be it further enacted,* That the courts aforesaid or any proceedings therein, shall not be discontinued by the death of any of the said judges, or by their non attendance at any time; but in such cases all actions and suits, matters and things therein depending shall stand continued of course to the next succeeding term.

Proceedings in court not discontinued by death of judges.

Sec. 41. *And be it further enacted,* That all writs made returnable to any of the aforesaid courts, shall run in the name of the Mississippi Territory of the United States, and bear teste in the name of the first judge or justice, except he be plaintiff or defendant, and then in the name of one of the associate judges or justices.

Writs, in what name to run and how to be tested.

Sec. 42. *And be it further enacted,* That the said supreme court shall be holden on the fourth Mondays of May and November, annually, and the said superior court for the district of Washington shall be holden on the days mentioned in the act of congress, entitled, "An act for the appointment of an additional judge for the Mississippi Territory, and for other purposes;" and said circuit court for Claiborne county, on the first Mondays in March and September, annually; and said circuit court for the county of Jefferson, on the third Mondays in March and September, annually; and said circuit court for the county of Adams on the second Mondays in April and October, annually; and said circuit court for the county of Wilkinson on the first Mondays in May and November, annually.

Time of holding supreme and circuit courts.

Supreme and superior courts to ordain rules respecting writs of error,

such writs, when to become *superseas*.

Said courts to render such judgment on writs of error as the inferior court ought to have done.

Supreme and superior courts to act as courts in chancery,

their powers therein.

To establish rules of proceeding, &c.

may direct issues in fact to be tried.

Sec. 43. *And be it further enacted*, That the said supreme court and the said superior court for the district of Washington, may ordain and establish all necessary rules respecting the granting, issuing, returning and hearing writs of error, so that no writ of error shall be a *superseas*, nor a *superseas* be granted of any judgment in civil cases, unless the plaintiff or plaintiffs in error, first enter into bond with good and sufficient security to the adverse party, conditioned for the payment of said judgment, damages, interest and costs, in case such judgment shall be affirmed, and also for performing the sentence, judgment or decree, the supreme or superior court may render therein; and the supreme and superior court shall render such sentence, judgment or decree therein, as the inferior court ought to have done, and award execution accordingly.

Sec. 44. *And be it further enacted*, That the said supreme court and the said superior court for the district of Washington, shall also be and act as courts in chancery in said counties of Wilkinson, Adams, Jefferson and Claiborne and district of Washington, respectively, and shall have and exercise all the power, authority and jurisdiction incident to courts of chancery, and may ordain and establish all necessary rules for the orderly conducting of business in equity, and for hearing and taking orders on interlocutory matters in vacation. And the clerks of said courts shall keep the rolls, records and proceedings in equity, separate and distinct from the proceedings in law in said courts.

Sec. 45. *And be it further enacted*, That the said courts of chancery may direct an issue in fact to be tried whenever they judge it necessary; and such issue shall be tried in the same manner, and by the same jury, and the same mode of pro-

ceedings observed in the trial thereof in every respect, as if it were an issue in fact joined in a suit in law in the same court.

Sec. 46. *And be it further enacted*, That each of the territorial judges shall have power and authority to issue writs of injunction and of *ne exeat* when the case may require it, but every person shall be discharged from a writ of *ne exeat* on giving good and sufficient security, and for that purpose the judge or court granting such writ shall endorse thereon the sum and number of security required.

Judges may issue injunctions, etc.

Sec. 47. *And be it further enacted,* That said courts sitting in chancery shall have power and authority to order and issue all process as has usually belonged to courts of chancery; and in case where decrees shall be passed for a sum of money, it shall be lawful for execution to issue thereon against the defendant's goods and chattels, lands and tenements, or against the defendant's body, to satisfy such decree and costs, in like manner, and with the same force and effect as executions may issue on judgments obtained at law in the supreme court of this Territory.

**Courts of chan-
cery to issue
usual process and
executions.**

Sec 48. And be it further enacted, That on the complainant's filing his bill in the clerk's office in term time or vacation, it shall be the duty of the clerk to issue a *subpoena* as is usual in cases of chancery, returnable to the next succeeding term; but in case either of the territorial judges shall give special order to hold the defendant or defendants to bail (which shall be done only on affidavit of the truth of the bill and damages sustained) it shall be the duty of the clerk to issue a writ to the sheriff of the proper county, together with a copy of the bill which writ shall be in form following, to wit: Mississippi Territory of the United States,
To the sheriff of the county of greeting:

**Proceedings on
bills filed ;
when defendant
to be held to bail**

form of writ in
chancery.

We command you to take A. B. if he be found in your county, and him safely keep so that you have his body before the judges of the in chancery sitting at on the Monday of next ensuing, to answer a bill in chancery preferred against him in our said court by C. D. a copy of which bill accompanying this writ, you will deliver to the said A. B. hereof fail not, and have you then therewith this writ; witness Esquire, judge of the court aforesaid, the day of Anno Domini and of American Independence the

To be served by
sheriff, who shall
take bailbond,

And the clerk shall indorse on said writ the sum in which the defendant is ordered by said judge to be held to bail, and the sheriff shall, by virtue of such writ, arrest the defendant, who shall not be discharged from such arrest until he enter into a bail bond, with good and sufficient security, in double the sum indorsed on such writ, conditioned to appear and answer said bill; and said bail bond shall be taken and assigned in the same manner and have the same force and effect, and be liable to the same recovery as bail bonds taken in actions at law, and the sheriff is hereby required, at the time of serving such writ in chancery, to deliver the defendant a copy of said bill; and if the defendant shall fail to appear according to the rules and practice of the court, after the due service and return of such writ, and plead answer or demur to the complainant's bill, the same may be taken *pro confesso*.

and deliver de-
fendant copy of
bill.

Defendant fail-
ing to appear, bill
may be taken
pro confesso.

Costs in equity.

Sec. 49. *And be it further enacted*, That costs in equity shall be paid by either party, at the discretion of the court.

Suits in the for-
mer courts to be
transferred,
and proceeded
upon.

Sec. 50. *And be it further enacted*, That all suits, actions and causes now depending in either of the superior courts of the district of Adams and Jefferson, heretofore in use in said districts, shall be immediately transferred into the circuit courts

of the counties of Adams and Jefferson, respectively, in the same state in which they are in said superior courts; and said suits, actions and causes shall be proceeded upon, tried and determined in said circuit courts as if originally commenced therein, in which soever county the cause of action might have arisen. And all suits depending in any court of equity heretofore in use in this Territory shall be transferred into the courts of chancery respectively established by this act, in the same state in which such suits now are and there proceeded upon, as if originally instituted in said last mentioned courts, to final sentence or decree.

Sec. 51. *And be it further enacted*, That the records, minutes and proceedings of the former superior court of Adams district shall belong and appertain to the office of the clerk of the circuit court of Adams county, and of the former superior court of Jefferson district to the office of the clerk of the circuit court of Jefferson county, and of the former supreme court of this Territory to the office of the clerk of the supreme court established by this act, and the clerks to which said offices may appertain respectively are authorized to certify said records, minutes and proceedings, with faith and credit to their attestations.

Records and minutes of former courts how disposed of,

and by whom to be certified.

Sec. 52. *And be it further enacted*, That all writs, process, recognizance and bonds for appearance returnable to either of the superior courts, that would have been holden, shall be returnable, returned and effectual to the first term of the circuit court of the county of Adams and Jefferson respectively, and there proceeded upon as if originated in said last mentioned courts.

Writs, &c. returnable to former superior courts, to be returned to the circuit court of Adams and Jefferson respectively

Sec. 53. *And be it further enacted*, That writs of execution and *scire facias* on any judgment obtained in either of the superior courts of Adams or Jefferson district, may issue returnable to the cir-

Writs of execution and *scire facias* on former judgments may be issued,

and writs may issue to next circuit courts, tested of the day of issuing writs of execution on judgments of last terms, when returnable.

No jury to be returned to the first circuit courts, nor issue in fact tried thereat.

No freeholder to be held to bail out of his county.

County courts established,

times of holding them,

may continue six days at each term.

circuit courts to be held under this act for the county of Adams and Jefferson as the case may be; and writs may be issued returnable to the first term of any of said circuit courts, tested of the day of issuing the same: *Provided*, That writs of execution issued or to be issued on any judgment obtained at the last term of either of said superior courts, shall be returnable to the second term of said circuit court for the county of Adams or Jefferson, to be held next after passing this act: *Provided also*, That to the first term of either of said circuit courts to be held next after passing this act no jury shall be returned or summoned or any issue in fact tried at either of said first terms: *And provided further*, That nothing in this act shall be so construed as to authorise the holding of any freeholder to bail in any civil action when sued out of the county of his residence and free-hold, if the same be within this Territory.

Sec. 54. *And be it further enacted*, That five justices of the peace in each county including the chief justice of the orphans' court, shall be commissioned by the Governor Justices of the *Quorum*: And said five justices shall be justices of, and they, or any three of them, hereafter hold the county court, and orphans' court of their respective counties; and said court shall be held twice in each year in every county within this Territory, on the days and times hereafter mentioned, that is to say, in the county of Washington on the first Monday in January and July; in the county of Wilkinson on the first Monday in January and July; in the county of Adams on the second Monday in January and July; in the county of Jefferson on the fourth Monday in January and July; and in the county of Claiborne on the second Monday in February and August, and each of said courts may continue to be held six judicial days at each term, and no longer.

Sec. 55. *And be it further enacted,* That the justices of the county courts shall, during their terms, keep and hold the orphans' court in pursuance of the act, entitled, "An act concerning wills and testaments, the settlement of intestates' estates, and the duties of executors, administrators and guardians," and shall moreover, as justices of the county courts of their respective counties (except in the county of Washington) have jurisdiction and may take cognizance of all actions of a civil nature in their respective counties, wherein the value of the matter in controversy shall not exceed one thousand dollars, excepting however real actions, actions of ejectment and trespass *quare clausum fre-git*; and the following rules of practice shall be observed in said county courts: The first day of every term shall be a return day, on which the plaintiff shall file his declaration, and the defendant shall plead thereto within the two succeeding days, and the plaintiff reply within two days then next succeeding; and if rejoinder or further pleading be required, the court may, on application, limit the time therefor, and may in any case wherein special pleading is necessary, enlarge the time therefor at their discretion, so that the cause be brought to issue before the next succeeding term, and in default of declaring or pleading *non pros*, or judgment by default may be entered, and if such judgment by default be in an action of debt, the same shall be final; but if a writ of enquiry be taken, the same shall be executed at the next succeeding term, by the jury attending such court: *Provided however,* That said courts may, on good cause shewn and on payment of costs, set aside a *non pros*, or judgment by default, on such terms as they may deem reasonable.

Said courts to keep and hold the orphans' court.

Jurisdiction of said courts.

Rules of practice therein

Sec. 56. *And be it further enacted,* That the

Clerks of said
county courts to
issue *venire faci-*
as, and sheriff to
summon the jury
at each term.

Penalty on jurors
failing to attend.

Tales men may
be summoned.

Said courts may
issue *subpœnas*
and executions to
any county.

Appeal from
county to superi-
or and circuit
courts allowed.

Appellant to give
bond, &c.

Trial *de novo*, &c.

clerk of each county court (except in the county of Washington) shall, at least ten days previous to each term, issue a *venire facias*, directed to the sheriff, commanding him to summon and return fifteen good and lawful men of his county, to serve as jurors at the succeeding term of said court, which number shall be summoned and returned by the sheriff and serve as jurors during such term, and every juror summoned and failing to attend without sufficient excuse, may be fined by said court in any sum not exceeding ten dollars; and on a defect of jurors a *tales de circumstantibus*, may be ordered by the court.

Sec. 57. *And be it further enacted*, That said county courts and each of them may issue *subpœnas* and writs of execution, directed to the sheriff or other proper officer of any county in this Territory, which shall be executed and returned accordingly.

Sec. 58. *And be it further enacted*, That any person aggrieved by any final judgment, sentence or decree of any county court, may appeal therefrom to the next term of the circuit court to be held in such county, or superior court for the district of Washington *Provided*, That the appellant shall enter into bond with sufficient security, to be approved of by the court from whose judgment the appeal is taken, conditioned that the appellant shall prosecute his appeal to effect and perform the sentence, judgment or decree, the circuit or superior court may render therein; which said bond shall make a part of the record in such case; and if judgment be given in the court above, against the appellant, the same shall be entered at the same time against his security in the appeal bond; and a trial *de novo* of issues in fact may be had on such appeals in the court appealed to.

Sec. 59. *And be it further enacted*, That no

suit, matter or thing, depending for determination in the county and orphans' courts as heretofore organized, shall be discontinued or abated by operation of this act, but every such suit, matter or thing shall stand for determination in said courts as organized by this act; and all writs and other process returnable, or bonds for appearance, to any term of said courts, that would have been held, shall be returnable, and effectual to the first term of said courts next after the passing this act; and nothing herein contained shall be so construed as to displace the clerks of the county courts as heretofore organized, from being clerks of said courts as organized by said act.

Suits, &c. in county courts not to be discontinued by this act, &c.

Nor clerks there. of displaced by it.

Sec. 60. *And be it further enacted*, That an act entitled "An act giving equity jurisdiction to the superior courts," and so much of all and every other act, as comes within the purview and meaning of this act, be and the same is hereby repealed.

Repealing clause.

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 2d, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

Additional to a bill entitled "An act establishing certain Courts therein named, and regulating Judicial Proceedings in this Territory."

Sec. 1. **BE** it enacted, by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That the fu-

Supreme court to
be held at seat of
Government.

preme court of the Mississippi Territory shall, instead of the place named in the first section of the bill, to which this is a supplement, be held at the place established or to be established by law for holding the sessions of the General Assembly of this Territory,

Clerk of county
court of Adams
ex-officio clerk
of circuit court
of same county.

Sec. 2. *And be it further enacted,* That the clerk of the county court of Adams county shall be clerk of the circuit court of the same county in like manner as the clerks of the county courts of Claiborne, Jefferson and Wilkinson counties are clerks of the circuit courts in said counties respectively, and that a person of skill and probity shall be appointed clerk of the said supreme court, to do and perform all those things that appertain to the duties of a clerk of said court.

If any free-hold-
er shall be sued
out of his county,
the venue shall be
changed.

Sec. 3. *And be it further enacted,* That if any free-holder in this Territory shall be sued out of the county of his residence and freehold, the venue shall be changed to the county of the defendant's residence and freehold, and the sheriff shall make return of the writ accordingly: any law to the contrary notwithstanding.

JOHN STEELE, *Speaker of the House
of Representatives pro tempore.*

JOHN ELLIS, *President of the Legisla-
tive Council,*

APPROVED, March the 2d, 1805.

CATO WEST, *Secretary of the Mississip-
pi Territory, acting as Governor of the
same.*

AN ACT

*To divorce Eliza Welch from Samuel Welch, her
husband.*

AN ACT.

For the relief of Robert Miller and Jacob Fleeharty.

WHEREAS Robert Miller and Jacob Fleeharty have at their own proper cost and charge, built a temporary gaol for the use of Jefferson county, that they may be compensated therefor, Preamble.

Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That D. W. Brazeale, Robert Cocks, Edmund Hall, Henry D. Downs and Afa Searcy, be and they are hereby appointed commissioners to view and estimate the value of said gaol, and make report thereof to the court of said county at their first term after the passing of this act, and the said court are hereby required to issue a draft on the treasury of the county for the amount of such valuation in favor of the claimants.

Commissioners appointed to value the temporary jail in Jefferson county, and court to allow the valuation thereof.

JOHN STEELE, *Speaker of the House of Representatives, pro tempore.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 5th, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

Establishing the Fees of the several Officers therein named.

Sec. 1. **B**E it enacted, by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That the officers and persons in this act named, shall be entitled to demand and receive for the services here-

in after mentioned, the fees thereto respectively annexed, and no more :

Clerk of the Supreme Court in Civil Causes at Law.

	Dols.	Cts.
Fees, of the clerk of the supreme court.		
Every writ of <i>certiorari</i> , <i>habeas corpus</i> , error, prohibition, <i>procedendo</i> , ...	1	
Every writ of execution, ...	1	
Every <i>subpoena</i> for one witness, ...	50	
Every additional witness in a <i>subpoena</i> after the first, ...	8	
Every <i>venire facias</i> for a special jury, ...	1	
Docketing every cause, ...	25	
Swearing and impannelling jury	75	
Receiving verdict and entering judgment, ...	1	
Entering non suit or discontinuance, ...	25	
Filing declaration, plea, replication or other pleading, ...	12	1-2
Taking and filing affidavit, ...	12	1-2
Commission to examine witnesses, ...	75	
Copy of interrogatories, per sheet, ...	10	
Remanding cause to circuit court, ...	75	
Entering judgment or decision on demurrer, case stated, motion for new trial, or in arrest of judgment, ...	1	
Recording final judgment, for every sheet, ...	25	
Copy of record, per sheet, ...	10	
Every rule of reference and copy thereof, ...	75	
Taxing cost, ...	50	

In Chancery.

In chancery.		
Entering action, ...	25	
Entering appearance, ...	25	
Filing bill, answer, plea, replication or other pleading, and every affidavit, petition, report, examination, deposition or other paper, each, ...	12	
Each copy, per sheet, ...	10	
Entering rule to answer, reply, or other rule in a cause, ...	25	
Entering of every dismissal, ...	25	
Setting down a cause for argument or hearing, ...	25	
Every <i>subpoena</i> or writ in equity, ...	75	
Enrolling or recording decree, per sheet, ...	12	1-2
Commission to take depositions, ...	75	
Copy of interrogatories, per sheet, ...	10	

In Criminal Cases.

In criminal cases. Where the services are the same, the same fees as in civil cases, and where the services are not the same, the same fees as are hereafter allowed the clerk of the circuit court.

Clerk of the Circuit Court in Civil Cases.

Of the clerk of the circuit court, in civil cases,		
Every writ of <i>capias</i> , or execution, ...	75	
Docketing cause, ...	12	1-2
Filing a declaration, bail bond, common bail, plea, replication or other pleading, consent rule, or affidavit, ...	12	1-2
Entering every rule, ...	12	1-2

	Dols.	Cts.
Entering non suit or discontinuance,	25	
<i>Venire facias</i> to be taxed in every cause tried by a jury,	12	1-2
Swearing and impannelling a jury,	50	
Receiving and entering a verdict,	16	
Entering every judgment in court,	40	
Every <i>subpoena</i> for one witness,	25	
Every additional witness,	5	
Entering tender of principal by his bail,	25	
Commission to take depositions,	75	
Copy of interrogatories per sheet,	10	
Taxing a recognizance,	33	
Taking cost bill,	40	
Recording final judgment per sheet,	12	1-2
Copies per sheet,	10	
Attending superior court in any cause, taken thither from the circuit court,	2	

In Criminal Cases.

Entering the finding of indictment or filing of information,	20	In criminal cases
Every bench warrant, <i>habeas corpus</i> , <i>writ of certiorari</i> , or execution,	75	
Arraigning prisoner and entering his plea,	33	
Taking recognizance,	50	
Discharge of recognizance,	25	
Swearing and impannelling jury,	75	
Receiving and entering verdict,	20	
Entering judgment,	40	
Swearing each witness,	5	
Every <i>subpoena</i> ,	25	
Every name inserted after the first,	5	
<i>Venire facias</i> , in every cause tried by jury,	16	
Every trial,	50	
Copies per sheet,	10	
Recording final judgment, per sheet,	12	1-2

Clerk of the County Court.

Where the services are the same, the same fees as are allowed to the clerk of the circuit courts, and for orders respecting roads, taxes, overseers of the poor, paupers, and appointments made by the court,	25	Of the clerk of the county court,
Copies thereof, per sheet,	10	
Recording accounts allowed against the county, per sheet,	10	
Drawing order on the treasury,	33	

Sheriff.

Serving attachment on estate of absent or absconding debtor, 2		Of the Sheriff,
Where the same is served on garnishee, for summoning each garnishee,	50	
Serving <i>capias ad respondendum</i> , or other <i>mesne</i> process, 1		
Every bail bond,	50	
Serving every <i>subpoena</i> for each witness summoned,	50	
Executing <i>venire facias</i> to be taxed in every cause tried by jury,	25	

Dols. Cts.

Summoning special jury, ...	2
Executing writ of possession and return, ...	2
Making the money on any writ of execution, if under fifty dollars, ...	1. 25
If over that sum 2 per centum on the amount,	
Attending sale at auction of goods taken on execution, for each day, ...	2
Deed to purchaser of real estate, ...	2 50
Attending with prisoner on <i>habeas corpus</i> , for each day, ...	2
Every commitment or releasement, ...	25
Taking every recognizance of bail, ...	50
Victualling a prisoner per day, ...	30
Serving declaration in ejectment and copy, ...	1 50

Counsel and Attornies.

Of counsel and attornies.	Every suit in chancery, ...	20
	Every suit at law in the supreme or circuit court, ...	8
	Every suit in the county court, ...	5

Jurors.

Of jurors.	To every juror in each cause in which he is sworn or af- firmed, to be paid to the foreman before the ver- dict is given in, ...	12 1-2
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Witnesses.

Of witnesses.	To every witness for each day's attendance, ...	1
	Every twenty-five miles travelling to, or returning from the place of holding court, the allowance of one day's attendance.	

Justices of the Peace.

Of justices of the peace.	Every warrant in criminal cases, ...	50
	Every judgment in <i>qui tam</i> prosecutions, ...	75
	Mittimus or recognizance, ...	50
	Every <i>subpœna</i> , ...	25
	Every warrant in civil cases and proceedings thereon to judgment.	50
	Every attachment, including the bond and affidavit, ...	2

Constables.

Of constables.	Serving every warrant, ...	75
	Serving writ of execution, ...	75
	Serving <i>subpœna</i> on each witness, ...	50
	For executing every mittimus in criminal cases for each defendant, ...	75

Coroners.

Of coroners.	For taking an inquisition, ...	10
	For all other services done by him, the same fees as are allowed the sheriffs for similar services.	

A sheet of writ-
ing to contain
one hundred
words.

Sec. 2. *And be it further enacted*, That a sheet
of writing within the meaning of this act shall
contain one hundred words.

Sec. 3. *And be it further enacted*, That if a-

ny officer before named shall take greater fees than are herein before expressed and limited for any service to be done in his office, or if such officer shall charge, demand, and take any fees herein before ascertained for services not actually rendered, every officer so offending shall forfeit and pay to the party injured fifty dollars, to be recovered in any court having competent jurisdiction, and it shall be lawful for any person to refuse payment of fees to any officer, who will not make out a bill of particulars, signed by him if required, and also a receipt, or discharge, signed by him, of the fees paid.

Penalty on officers violating this act,

Officer to furnish bill of fees, if required, and also a receipt.

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 6th, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

Respecting Slaves.

Sec. 1. **BE** it enacted, by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That no slave be admitted a witness against any person, in any matter cause or thing whatsoever, civil or criminal, except in criminal cases, in which the evidence of one slave shall be admitted for or against another slave.

In what case slaves may be witnesses.

Sec. 2. *And be it further enacted,* That no slave shall go from the tenements of his master, or other person with whom he lives, without a pass,

Slaves not to go from home without pass.

or some letter or token, whereby it may appear that he is proceeding by authority from his master, employer or overseer ; if he does, it shall be lawful for any person to apprehend and carry him before a justice of the peace, to be by his order punished with stripes, or not, in his discretion, not exceeding twenty stripes.

Nor upon the plantation of any person without leave in writing.

Sec. 3. *And be it further enacted*, That if any slave shall presume to come and be upon the plantation of any person whatsoever, without leave in writing from his or her owner or overseer, not being sent upon lawful business, it shall be lawful for the owner or overseer of such plantation to give or order such slave ten lashes on his or her bare back, for every such offence.

Slaves not to carry offensive or defensive weapons.

Sec. 4. *And be it further enacted*, That no slave shall keep or carry any gun, powder, shot, club, or other weapon whatsoever offensive or defensive, except the tools given him to work with, or that he is ordered by his master, mistress or overseer to carry the said articles from one place to another, but all, and every gun, weapon or ammunition found in the possession or custody of any slave, may be seized by any person, and upon due proof thereof made before any justice of the peace of the county or corporation, where such seizure shall be made, by his order, be forfeited to the seizer for his own use ; and moreover, every such offender shall have and receive by order of such justice, any number of lashes not exceeding thirty nine, on his bare back for every such offence: *Provided nevertheless*, That any justice of the peace may grant, in his proper county, permission in writing, to any slave, on application of his master, or overseer to carry and use a gun and ammunition within the limits of his said master's or owner's plantation, for a term not exceeding one year, and recoverable, at any time within such term, at

In what cases they may get leave to carry gun,

the discretion of said justice. And to prevent the inconveniences arising from the meeting of slaves,

Sec. 5. *Be it further enacted*, That if any master, mistress or overseer of a family shall knowingly permit or suffer any slave not belonging to him or her, to be and remain in or about his or her house or kitchen, or upon his or her plantation above four hours at any one time, without leave of the owner, or overseer of such slaves, he or she so permitting, shall forfeit and pay ten dollars for every such offence, and every owner or overseer of a plantation who shall so permit or suffer more than five negroes or slaves, other than his or her own, to be and remain upon his or her plantation or quarter at any one time, shall forfeit and pay ten dollars for each negro or slave above that number, which said several forfeitures shall be to the informer, and recoverable with costs, before any justice of the peace of the county or corporation where such offence shall be committed. *Provided always*, That nothing herein contained shall be construed to prohibit the negroes or slaves of one and the same owner, though seated at different quarters, from meeting with their owners' or overseers' leave, upon any plantation to such owner belonging, nor to restrain the meeting of slaves on their owner's or overseer's business at any public mill, nor to prohibit their meeting on any other lawful occasion by licence in writing from their owner, or overseer, nor their going to church, and attending divine service, on the Lord's day, and between sun-rising and sun-setting.

Penalty on persons permitting slaves, not their own, to remain on their plantations.

Sec. 6. *And be it further enacted*, That riots, routs, unlawful assemblies, trespasses, and seditious speeches by a slave or slaves shall be punished with stripes, not exceeding thirty-nine, at the discretion of a justice of the peace; and he who will, may

Riots, &c. by slaves, how punishable.

apprehend, and carry him, her, or them, before such justice.

Penalty on white persons being found in company with slaves at their unlawful meetings.

Sec. 7. *And be it further enacted,* That if any white person, free negro, or mulatto shall at any time be found in company with slaves at any unlawful meeting, or shall harbour, or entertain any slave without the consent of his or her owner, such person being thereof convicted before any justice of the peace, shall forfeit and pay twenty dollars for every such offence; to the informer, recoverable, with costs, before such justice.

Powers of justices of the peace in case of such unlawful meetings.

Sec. 8. *And be it further enacted,* That every justice of the peace upon his own knowledge of such unlawful meeting, or information thereof to him made within ten days after, shall issue his warrant to apprehend the persons so met or assembled, and cause them to be brought before himself, or some other justice of his county or corporation, to be dealt with as this act directs, and every justice failing herein, shall forfeit and pay ten dollars for every such failure; and every sheriff or other officer who shall fail, upon knowledge or information of such meeting, to endeavour to suppress the same, and bring the offenders before some justice of the peace to receive due punishment, shall be liable to the like penalty of ten dollars; both which penalties shall be to the informer, and recoverable with costs by action of debt in any county or corporation court; and every under sheriff, or constable, who, upon knowledge or information of such meeting shall fail to perform his duty in suppressing the same, and apprehending the persons so assembled, shall forfeit and pay ten dollars, for every such failure, to the informer, recoverable with costs, before any justice of the county or corporation wherein such failure shall be.

Sec. 9. *And be it further enacted,* That no per-

son whatsoever shall buy, sell, or receive of, to, or from a slave any commodity whatsoever, without the leave or consent of the master, owner, or overseer of such slave. And if any person shall presume to deal with any slave, without such leave or consent, he or she so offending shall forfeit and pay to the master or owner of such slave, four times the value of the thing so bought, sold or received, to be recovered with costs, by action upon the case, in any court having cognizance of the same, within this Territory, and shall also forfeit and pay the further sum of twenty dollars, to any person who will sue for the same, with costs before any justice of the peace; or on failure or refusal so to pay, shall, by order of such justice, be committed to prison, until he or she make such payment, and any slave offering to sell any article without leave in writing from his master or owner, shall receive ten lashes, by order of any justice of the peace, before whom he or she is committed.

Trading with
slaves prohibited.

Sec. 10. *And be it further enacted*, That if any master or owner of a slave, shall licence such slave to go at large and trade as a freeman, the master or owner shall forfeit and pay the sum of fifty dollars, one moiety to the use of any person suing for the same, and the other moiety to the use of the Territory, and if after conviction such slave shall be found so going at large and trading, the master or overseer shall again be liable to the like penalty, to be recovered as aforesaid, and so, as often after conviction as such slave shall be found so going at large and trading.

Masters not to
licence their
slaves to trade,

Sec. 11. *And be it further enacted*, That if any person shall permit his or her slave to go at large, or hire him or herself out, every person or persons so offending shall forfeit and pay to the use of the Territory the sum of fifty dollars, and it shall be lawful for any person to apprehend, and carry such

Or to go at large
or to hire him or
herself.

slave before a justice of the peace in the county or corporation where apprehended, and if it shall appear to the justice that such slave comes within the purview of this act, he shall order him or her to the gaol of the county or corporation, there to be safely kept until the next court, when, if it shall be made appear to the court, that the slave so ordered to gaol hath been permitted or suffered to hire him or herself out, contrary to the meaning of this act, the court shall immediately proceed to enter up judgment, and award execution against such offender for the amount of said forfeiture with costs: *Provided,* That if the owner or holder of such slave or slaves, shall enter into bond before said justice, payable to the Governor and his successors in office, with sufficient security in double the amount of said forfeiture, conditioned to appear at the next county court of the proper county, to do and receive what shall be enjoined him by the court, then and in that case, such slave may be suffered to remain with his or her owner.

Run-away slaves
how to be dealt
with.

Sec. 12. *And be it further enacted,* That all run-away slaves may be lawfully apprehended by any person, and carried before the next justice of the peace, who shall either commit them to the county jail, or send them to the owner, if known, who shall pay for every slave, so taken up, the sum of six dollars to the person apprehending him or her, and also all reasonable costs and charges. And in order to establish what slaves shall be considered as runaways; if any slave shall absent him or herself, from his or her usual place of residence, or owner's service, without leave, the owner or overseer shall be obliged to give into the next justice of the peace, the name with a description of the person of such slave within ten days after such slave shall have absented him or herself, all such slaves so reported shall be considered as runaways,

What slaves to
be considered as run
aways.

and the person apprehending him, her, or them, shall be entitled to the above reward. And if any master, mistress or overseer shall neglect to give in the information above required, such master, mistress or overseer shall forfeit and pay one dollar for each day that such information shall have been omitted, which penalty shall be recoverable before any justice of the peace by such person as shall sue for the same. And whereas many times slaves run away and lie out hid, and lurking in swamps, woods and other obscure places, killing hogs and committing other injuries to the inhabitants of this Territory: Therefore,

Sec. 13. *Be it further enacted*, That in all such cases, upon intelligence given of two or more slaves lying out as aforesaid, any one justice of the peace of the county where the slaves are supposed to lurk or do mischief, shall be and are empowered and required, by warrant, reciting their names and owners' names, if known, to direct the provost of the patrols to take such power with him as he shall think fit and necessary for the effectual apprehending such out lying slave or slaves, and go in search of them, and upon their being apprehended, to commit them, or any of them to the gaol of his county for further trial; and for every such out lying slave by him apprehended and committed to gaol as aforesaid, he shall be entitled to a reward of thirty dollars, to be paid out of the territorial treasury, three fourths of which sum shall be reimbursed to the Treasury by the owner of said slave: *Provided*, That if the owner be an inhabitant of this Territory, the said sum shall be added to his tax for the current year, and be collected and accounted for in the same manner as other public taxes are: *And provided also*, That any other person or persons who shall apprehend and commit to gaol as aforesaid, any out lying slave,

Further power
of justices as to
out lying run-
way slaves.

he or they shall be entitled to the same reward for every such apprehension and commitment.

Slaves not to
keep dogs.

Sec. 14. *And be it further enacted,* That all slaves be prohibited from keeping dogs, under any pretence or consideration whatsoever, and the slave or slaves so offending, upon complaint thereof before any justice of the peace, shall be punished with not exceeding twenty-five stripes for every such offence, and the master or owner who shall permit his slaves to keep dogs contrary to this law, shall forfeit and pay the sum of five dollars for each and every dog so kept, to and for the use of the person complaining; and moreover shall make good all damages done by dogs appertaining to, or kept by any of his or their slaves.

Nor to own any
horse or mare.

Sec. 15. *And be it further enacted,* That no slave shall be allowed to own any horse, mare, gelding or mule, and if any slave shall actually own such property, the same shall be forfeited, and sold under the direction of the court of the county where such property shall be so owned; one moiety of the proceeds, for the use of the Territory, and the other moiety, to any person who shall sue for the same. It is also forbidden to slaves to keep hogs running at large, or to keep in inclosures more than they can conveniently maintain, the number of which to be regulated by the several owners, and to be distinctly marked, and register thereof made for the inspection of any person who shall require to see the same: And whereas it has been the humane policy of all civilized nations where slavery has been permitted to protect this useful but degraded class of man from cruelty and oppression, therefore,—

In what manner
they may keep
hogs.

No cruel or un-
usual punishment
to be inflicted on
slaves.

Sec. 16. *Be it further enacted,* That no cruel or unusual punishment shall be inflicted on any slave within this Territory. And any owner of slaves authorising or permitting the same, shall, on

conviction thereof, before any court having cognizance, be fined according to the nature of the offence, and at the discretion of the court, in any sum not exceeding two hundred dollars to, and for the use of this Territory.

Sec. 17. *And be it further enacted,* That if a-
ny slave shall at any time lift his or her hand in op-
position to any white person, he or she so offend-
ing, shall for every such offence, upon conviction
before a justice of the peace of the county where
such offence shall be committed, receive, not ex-
ceeding twenty lashes, on his or her bare back,
well laid on, by order of such justice.

No slave to lift
his hand against
white person.

Penalty thereon,

Sec. 18. *And be it further enacted,* That if any
slave shall, at any time, consult, advise or con-
spire to rebel, or make insurrection, or shall plot,
or conspire the murder of any person or persons
whatsoever, every such consulting, plotting or con-
spiring shall be adjudged and deemed felony, and
the slave or slaves convicted thereof, in manner
herein after directed, shall suffer death.

And in case of
their rebelling,

Sec. 19. *And be it further enacted,* That any
one justice of the peace of any county in this Ter-
ritory shall have power, and is hereby required,
without delay, to try any slave or slaves, for infe-
rior offences, as may be brought before him, and
on conviction may punish, with stripes at his dis-
cretion, not exceeding thirty-nine, for any offence.
Provided always. That such justice shall have pow-
er, and he is hereby required to summon to his
assistance, five lawful men as a jury, whose duty
it shall be, on oath, to find the facts, and if any
person or persons summoned as aforesaid, shall ne-
glect or refuse to attend, not having a lawful ex-
cuse, each person so offending shall forfeit and pay
the sum of ten dollars to the use of the Territory,
to be recovered before the justice issuing such sum-
mons.

Slaves how to be
tried for inferior
offences,

And how for
felony and ca-
pital offences.

Sec. 20. *And be it further enacted,* That the trial of a slave for felony or any capital offence, shall be in all respects similar to the trial of a free citizen or inhabitant, for the like offence, except that the jury or two-thirds at least thereof impanelled for such trial, shall be composed of owners of slaves. And the court may take for evidence the confession of the offender, the oath of one or more creditable witnesses, or such testimony of slaves, or negroes with pregnant circumstances, as to them shall seem convincing.

In what cases al-
lowed benefit of
clergy.

Sec. 21. *And be it further enacted,* That when any slave shall be convicted of any offence within the benefit of clergy, judgment of death shall not be given against him or her upon such conviction, but he or she shall be branded on the face or breast by the gaoler in open court, and suffer such corporal punishment as the court shall think fit to inflict, except where he or she once had the benefit of this act, and in those cases, such slave or negro shall suffer death without benefit of clergy.

In what not.

Fines, &c. col-
lected under this
act, how to be
appropriated.

Sec. 22. *And be it further enacted,* That all fines and forfeitures incurred and recovered under this act, to and for the use of this Territory shall be applied in aid of the fund established for the payment of warrants issued for the reward allowed for apprehending out-lying slaves, and the expences incurred by the patrol.

Provosts of pat-
rols to be ap-
pointed.

Their duty,

under Gover-
nor's directions.

Sec. 23. *And be it further enacted,* That there shall be a discreet and enterprising person appointed and commissioned by the Governor, provost of the patrols in each and every county and corporation within the Territory, whose duty it shall be to employ such force or number of men, not exceeding ten, as patrols, to be composed of drafts taken from the militia, in such manner as the Governor and Commander in Chief may direct, for the

purpose of apprehending and bringing to justice all such slaves, or other persons, as he may find in the actual violation of any of the provisions of this act, and to be dealt with accordingly: *Provided nevertheless*, That he shall be governed, in the execution of his duty, by special instructions from the Governor and Commander in chief for the time being, and that he shall receive for his services four dollars per day, and those employed under him shall receive one dollar per day while actually engaged in said service, to be paid on warrant of the auditor of public accounts; and moreover it shall be the duty of all officers civil and military, and they are hereby required to aid and assist the said provost of the patrol in the execution of his duties herein prescribed, and each within their respective provinces, and in conformity to the instructions given him by the Governor and Commander in Chief, as aforesaid.

Civil officers, and of militia, to aid provost. &c.

Sec. 24. *And be it further enacted*, That for the purpose of establishing a permanent fund to defray the expences arising under this act, there shall be levied, collected and paid into the territorial treasury, by the sheriffs and collectors of the several counties and corporations respectively, a tax of twelve and a half cents for every slave, male and female, within this Territory, which tax or money so paid in, shall be held and appropriated for the special purpose of paying warrants issued by the auditor for the payment of rewards, allowed for the apprehending and committing to gaol outlying slaves, and the expences incurred by the patrol, under the provost of the patrol.— And whereas it is found that slaves make a practice of going into the city of Natchez, and associating with persons of vicious habits, without a pass from their masters or owners, and frequently sell articles of produce without permission from their

Fund provided to defray expences arising under this act.

masters for such such selling or vending ; for remedy whereof,

Slaves found
without a pass in
the city of Nat-
chez, how to be
dealt with.

Sec. 25. *And be it further enacted,* That it shall be the duty of the justices, sheriffs, constables and patrols, to take in custody every slave who shall be found in said city of Natchez, without a pass, or selling any article without permission, as in this act directed ; and in addition to the punishment herein before prescribed, for such offences, shall be delivered to the surveyor of the streets, to be by him employed in repairing the streets, to be fed upon one half allowance, until his master can take him away.

PHILANDER SMITH, *Speaker of the
House of Representatives*

JOHN ELLIS, *President of the Legisla-
tive Council.*

APPROVED, March the 6th, 1805.

CATO WEST, *Secretary of the Mississip-
pi Territory, acting as Governor of the
same.*

AN ACT

*For the well regulating of Gaols, and for the relief
of Insolvent Debtors.*

Sheriff to file
warrants, &c.
and deliver them
over to his suc-
cessor.

Sec. 1. **BE** it enacted, by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That all warrants, mittimuses, writs, process, or precepts of any kind, or the attested copies thereof by which any prisoner may be committed to or enlarged from any gaol in this Territory, shall be regularly filed in their order of time, and safely kept by the sheriff, or keeper of the gaol, under his direction ; and upon the death, removal, or resignation of any

sheriff, all said warrants, mittimuses, writs, process and precepts, or copies thereof, filed and kept as aforesaid, shall be delivered over to his successor in office, on demand by him made, under the penalty of three hundred dollars, to be recovered of the sheriff so resigned or removed, or of his executors or administrators, in case of his death, one half to the use of the person suing for the same, and the other half to the use of the proper county.

Sec. 2. *And be it further enacted*, That every person committed to prison in a civil case, or for a criminal offence, may furnish his or her own support and maintenance, and the sheriff or gaoler shall admit any person who will administer to the wants of such prisoner, to furnish him or her with necessary support and maintenance, in such manner, however, as not to aid any escape or endanger the security of the prison.

Person imprisoned may furnish his own support.

Sec. 3. *And be it further enacted*, That every person confined for a criminal offence, who may be unable to support him or herself in prison, shall be supplied by the sheriff or gaoler under his direction, with daily sustenance, and in case of conviction and inability to discharge the fees for sustenance, or in case of acquittal, and the fees be not taxed on the prosecutor, the same shall be discharged by the Territory; and the auditor of public accounts shall draw a warrant in favour of said sheriff, or gaoler, therefor, on the certificate of the court having cognizance of the offence, or supposed offence, for which such prisoner was confined, that the said sheriff or gaoler is entitled thereto; and no fees, expences, or perquisites, whatever, except what are or may be set down, and allowed by law, shall be taken or received of a prisoner, or charged against the Territory.

In what cases Territory to pay prison fees.

Sec. 4. *And be it further enacted*, That no sheriff, gaoler or person having the care or keep-

Sheriff prohibited
from selling li-
quors to prison-
ers.

ing of any gaol, shall sell or dispose of, to any person or persons under arrest or in prison. any wine, rum, brandy, whiskey or other strong or intoxicating liquor, under the penalty of twenty dollars for each offence, to be recovered before any magistrate of the proper county, one half to the use of the person suing for the same, and the other half to the use of the county.

How prisoners
who may be in-
solvent may be
liberated,

Sec. 5. *And be it further enacted,* That any person imprisoned in a civil or *qui tam* action shall furnish his or her own sustenance or pay the legal fees therefor, until lawfully discharged; and any person imprisoned as aforesaid, who may be unable to support him or herself in prison, may on application to any judge or justice of the court in which such action is depending, or from whence the process issued, be discharged from imprisonment as an insolvent debtor, by such judge or justice, under the following restrictions:— Such prisoner shall give at least ten days notice, in writing, to the plaintiff, or his attorney, of the time and place of such application; and such judge or justice is hereby authorized and empowered, at the time and place appointed, on affidavit of the due service of such notice, and after fully examining and hearing the parties, and finding no fraud to be practised by such debtor to administer to him or her, the following oath or affirmation, to wit: “I, A. B. do solemnly swear before Almighty God, (or affirm as the case may be) that I have not any estate, real or personal, in possession, remainder or reversion, to the value of twenty-five dollars, or of value sufficient to discharge the debt (or damages) for which I am imprisoned, and that I have not since the commencement of this suit against me, or at any other time, directly or indirectly, sold leased, conveyed or disposed of any estate, in trust, or otherwise, to

any person or persons whomsoever, with any intent or design to secure the same, or to receive profit or advantage therefrom, nor have I caused, or suffered to be done, any thing whatsoever, whereby to defraud any of my creditors—So help me God.”

Whereupon said judge or justice, administering such oath or affirmation, may grant unto such insolvent debtor a certificate thereof to the sheriff or gaoler, who shall thereupon discharge such prisoner, who shall not thereafter be imprisoned for such debt or damages; but judgment may be rendered and execution issue against any goods, chattels, lands or tenements that such debtor may be thereafter at any time possessed of.

Sec. 6. *And be it further enacted*, That if any prisoner shall swear falsely to obtain such certificate of discharge, he or she so offending shall be considered guilty of wilful and corrupt perjury, and on conviction thereof, shall suffer accordingly, and shall moreover, receive no benefit from such certificate, but may be retaken and imprisoned on the process from which such prisoner was discharged by said certificate.

Penalty for false swearing.

Sec. 7. *And be it further enacted*, That a gaol-yard or limits to any prison may be laid out and surveyed adjoining and appertaining to said prison, not exceeding ten acres of ground; which said limits or prison bounds shall be fixed and ascertained by the county court in each county, and entered on record in such court.

Sec. 8. *And be it further enacted*, That any prisoner imprisoned in a civil action for debt or damages on original, *mesne*, or final process, shall have the liberty or limits of such gaol yard on entering into bond and security as herein after mentioned.

Prisoners may have the liberty of gaol yards,

Sec. 9. *And be it further enacted*, That any prisoner imprisoned as mentioned in the last preced-

in what manner.

ing section, may enter into a bond with two sufficient securities, to the plaintiff, in double the sum of the debt or damages for which he is imprisoned, which said bond the sheriff or gaoler shall take, with a condition in the form following—to wit: “The condition of the above obligation is such, that if the above bound A. B. a prisoner in the gaol of ——— county, at the suit of C. D. do and shall from the date hereof continue a true prisoner in the custody, guard and safe-keeping of the keeper of said prison, or of his steward, deputy or other officer, or of some of them within the limits of said prison as by law established, until he shall be thence discharged by due course of law, without committing any escape in the mean time, then this obligation shall be void, else to remain in full force and virtue,” and the sheriff shall be authorized to take said bond on the approbation of the plaintiff or his attorney of the security offered, or on the approbation thereof of any two justices of the county court, or one of the Territorial judges, and on condition broken of said bond, the same may be put in suit, and the debt or damages for which such prisoner was imprisoned, together with ten per cent. interest thereon from the time of commitment recovered; and the court shall chancer said bond accordingly.

Repealing clause. Sec. 10. *And be it further enacted,* That the act entitled “An act concerning gaols and prisoners,” and the act entitled “a law extending and defining the gaol yards in this Territory,” be, and the same are hereby repealed.

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 7th, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

Providing for the Public Printing necessary to be done in this Territory.

Sec. 1. **BE** it enacted, by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That Timothy and Samuel Terrell be, and they are hereby appointed Public Printers for and during the term of one year, from the first day of December last.

T. & S. Terrell
appointed Public
Printers for one
year.

Sec. 2. *And be it further enacted*, That one hundred and fifty copies of the laws of the present session of the General Assembly, shall be printed by the said Public Printers, within one month after the rising of the said General Assembly, with marginal notes, on an octavo page, of the same size, type, number of lines and quality of paper (in close work) as the Journal of the last session of the Congress of the United States, under the direction, superintendence, and examination of the Secretary of this Territory, and also fifty copies of the Journal of the Legislative Council, and fifty copies of the Journal of the House of Representatives of this Territory, within the time before mentioned on the same page, type, and quality of paper (in close work) as the Journals of the last session of the Legislature of this Territory, under the direction, superintendence and examination of their Secretary and Clerk respectively.

Number of co-
pies of laws and
journals to be
printed, and in
what manner,
and time.

Sec. 3. *And be it further enacted*, That said Printers shall receive for said one hundred and fifty copies of said laws, at the rate of one dollar per page, for the number of pages in one of said copies, and the rate of two dollars per page for every page contained in one copy of said fifty

Printers' com-
pensation.

Journals, to be paid by the Territorial Treasurer on the Auditor's warrant, which warrant shall be issued on the receipt of the Secretary of the Territory, certifying the number of pages, and the sum to which said Printers are entitled for the same; and said Printers shall receive for all miscellaneous printing done by order of either House during the session, two dollars per folio page (the number of copies not exceeding fifty) to be audited and paid as aforesaid, on the certificate of the President of the Council, or Speaker of the House of Representatives.

How Laws and
Journals to be
distributed.

Sec. 4. *And be it further enacted*, That said laws shall be distributed as follows, to wit: One copy to the Governor, one to the Secretary, one to each of the Territorial Judges, one to each Attorney-General, one to each Member of the General Assembly, one to each Justice of the Peace, one to each Sheriff, one to the Secretary of the Council, one to the Clerk of the House of Representatives, one to the Clerk of each Court of Record in the Territory for the use of the same; and the residue to be distributed as the Governor shall direct. And said Journals shall be distributed, as follows, to wit: Two copies of the Journal of each House to the Governor, two to the Secretary of the Territory, two to each Member of the General Assembly, and two to the Secretary and Clerk of the Houses respectively, and the residue to be distributed as the Governor may direct.

And by whom.

Allowance of
clerk hire.

Sec. 5. *And be it further enacted*, That the copies of said laws shall be distributed by the Secretary of the Territory, and said Journals by the Secretary and Clerk of the respective House, and the Secretary shall be allowed, by the Auditor of Accounts, reasonable and necessary clerk hire for

copying and comparing the original rolls of said laws.

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 8th, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

To provide for the raising of a Revenue.

Sec. 1. **BE** it enacted, by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That for the purpose of ascertaining the proportion of territorial taxes that ought to be assessed upon the counties respectively in this Territory, there shall be added to the whole number of free male inhabitants above the age of twenty-one years, in any county, three-fifths of the whole number of slaves in such county, and the amount of any territorial tax or sum of money voted by the legislature to be raised for the use of the Territory, shall be assessed on the respective counties in proportion to the aggregate number of the free male inhabitants above the age of twenty one years, with three-fifths of the whole number of slaves added thereto, in the county to be assessed.

Proportion of territorial taxes to be assessed upon the respective counties, how to be ascertained

Sec. 2. *And be it further enacted,* That on or before the first day of August next, the secretary of the Territory shall furnish to the auditor of public accounts, for the use of said auditor and territorial treasurer, an attested abstract of the e-

In what manner said taxes are to be apportioned.

And assessed.

enumeration herein after provided for, shewing the aggregate number of every description of persons and slaves in every county, according to said enumeration; and the said auditor and treasurer shall thereupon apportion the territorial tax to each county in the ratio and proportion mentioned in the preceeding section of this act, and shall immediately issue warrants under the hand of the auditor and seal of his office, attested by the treasurer, directed to the assessors herein after mentioned of each county; requiring them to levy and assess the amount of such county's proportion of territorial tax, (which shall be set down expressed in said warrant,) upon the inhabitants and taxable property in their county, according to the provisions of this act, and said auditor and treasurer shall, in the month of August, in every subsequent year, apportion the territorial tax to the different counties in the same ratio and proportion, and issue their warrants to the assessors thereof as aforesaid, until a new enumeration shall be taken by law.

Assessors to be appointed.

Their oath.

Sec. 3. *And be it further enacted,* That there shall be appointed and commissioned by the governor, three assessors in each county in the territory, and each assessor so appointed and accepting the appointment shall, before he enters on the duties of his office, take and subscribe the following oath or affirmation before the governor or some judge or justice of the peace in the county for which he is appointed, to wit: I A. B. do swear (or affirm) that I will diligently and faithfully execute the office and duties of assessor for the county of _____ without favor or partiality, and that I will do equal right and justice in every thing in which I shall act as assessor," which said oath or affirmation shall be filed in the office of the secretary of the territory, or in the office of

the clerk of the county court of the county to which such assessor is appointed, and every assessor acting in said office without having taken such oath or affirmation, shall forfeit and pay for the use of the territory the sum of fifty dollars; to be recovered with costs of suit in any court having competent jurisdiction.

Sec. 4. *And be it further enacted,* That for the purpose of making an enumeration of the polls and valuation of the taxable property, it shall be the duty of the assessors in each county to divide their county by mutual consent and agreement into three divisions, and each assessor shall in the month of September in every year proceed through his division and take down a true and accurate list and enumeration of every free male inhabitant above the age of twenty one years in his division, and an account and list of all houses and lots of ground, lands and other real estate in his division; and an account and list of all slaves above the age of seven years, and under the age of fifty years, of all horses, mares, colts and mules above the age of twelve months, of all horned cattle, of all pleasurable carriages, and the number of wheels on which they are supported; of all billiard tables kept up for the purpose of playing thereon; and of all stores of the description herein after mentioned, together with the names of the owners, possessors or persons, having the care of any of the before specified property; and said account and list shall specify the situation and dimension of houses and lots, the quantity, quality and situation of land or other real estate. And every person applied to by the assessor and owning, possessing or having the care or management of any property, real or personal, before specified, shall render on oath (if required) to the assessor, a true list and statement thereof in writing, signed by

And duty.

such person, and all lists shall be taken with reference to the first day of September.

Penalty on persons failing to return fair lists of property to assessors.

Sec. 5. *And be it further enacted,* That if any person as aforesaid be applied to as aforesaid shall refuse or neglect to deliver and sign such account and list, or if any person shall deliver or disclose to any assessor a false or fraudulent list or account, with intent to defeat or evade a just assessment of taxes, any person so offending in either case shall, on conviction thereof before any court of competent jurisdiction, be fined in a sum not exceeding two hundred dollars, to the use of this Territory.

Further duty and powers of assessors in taking lists of property.

Sec. 6. *And be it further enacted,* That if there shall be in any division of a county, any houses, lots of ground, lands, or other real estate, or any personal property before specified, not owned, possessed, or in the care of any person or persons within such division, and no list or account thereof shall be furnished the assessor to whom such division is assigned, in manner provided by this act, or in case a false or fraudulent list thereof shall be given in either case, it shall be the duty of such assessor, and he is hereby authorized and required to enter into and upon such houses, lots of ground, lands and other real estate, and make lists and take account of the same, and of such personal property as is before specified, which list, signed by such assessor, shall be taken and reputed good and sufficient list thereof.

At what time, and in what manner assessors to meet, value and estimate the property assessed

to make lists of polls, and of taxable property.

Sec. 7. *And be it further enacted,* That said assessors shall meet on the first Monday in October, at the court house of their counties respectively, and shall from the accounts and lists by them taken in the several divisions of their county, proceed to value and estimate the houses, lots of ground, lands and other real estate, contained in each division of their county, having reference in such valuation

to the situation and dimension of houses and lots, and situation, quantity, quality and improvement of lands and other real estate, and shall make out a general list to include all the polls, taxable property and amount of taxes assessed in their county; the first column of said general list shall contain the names of every free male inhabitant above the age of twenty-one years in their county, the second shall contain the names of every owner, possessor or person having the care of any taxable property in such county, the third shall specify the houses, lots of ground, lands and other real estate, owned, possessed or in the care of such person, with the number of such houses and lots, the quality and situation of such tracts of land; the fourth shall contain the actual value of such houses, lots, lands and other real estate; the fifth shall contain the number of slaves above the age of seven and under the age of fifty years, owned, possessed or in the care of such person; the sixth shall contain the number of horses, mares, colts and mules above the age of twelve months, owned, possessed or in the care of any such person; the seventh shall contain the number of black or horned cattle above the age of one year, owned, possessed or in the care of such person; the eighth shall contain the aggregate amount of the value of the property contained in the three preceding columns; and in ascertaining such value, the assessors shall estimate every such slave at the price of three hundred dollars; every horse, mare, colt or mule at thirty dollars; every head of black or horned cattle above the age of one year at eight dollars; the ninth column shall contain the aggregate amount of the value of all the foregoing property, real and personal; the tenth shall contain the number of billiard tables; the eleventh column shall contain the number of all pleasurable carriages; the twelfth shall contain

Estimate of taxable property defined.

the number of all merchants stores, and the thirteenth shall contain the collective amount of each person's tax, excepting the poll tax.

How each county's proportion of Territorial taxes are to be assessed.

Sec. 8. *And be it further enacted,* That each county's proportion of the Territorial tax shall be assessed by said assessors as follows; they shall first assess a capitation tax of one dollar on every free male inhabitant above the age of twenty-one years, a tax of one hundred dollars on every billiard table; on every pleasurable carriage at the rate of two dollars for each wheel on which it is supported; on every store or ware-house, kept open for the sale of merchandize by any merchant, or company of merchants, who import their merchandize from beyond this Territory, twenty dollars, after deducting the amount of the tax accruing in their county, on the polls, billiard tables, pleasurable carriages, and stores, from the whole amount of tax to be raised in such county, said assessors shall ascertain the proportion, or rate per centum of the residue of the whole amount of said tax, on the whole amount contained in the ninth column of said general list, and shall assess the said residue proportionally on the persons named in the second column of said general list, according to the amount of such persons' taxable property, expressed in the ninth column of said list, and the total amount of such persons' tax, except the poll tax, shall be set down in the thirteenth column of said list, opposite his or her name.

Said assessors to continue their meeting until their business is completed,

In which time they are authorized to employ a clerk,

Sec. 9. *And be it further enacted,* That said assessors may continue their meetings from said first Monday in October, from day to day until their business be completed, during which time they are hereby authorized and empowered to employ a suitable person as clerk to do and perform all such things as shall pertain to the duties of clerk, and be directed by said assessors. And after hav-

ing made out the general list, as directed in the preceding section of this act, said assessors shall add up and foot the whole amount of tax contained in the thirteenth column of said list, and add thereto the amount of poll tax contained in the first column of said list, and they shall thereupon cause four fair copies of said list to be made, each of which, with the original, shall be signed by said assessors, and attested by their clerk, and the original of said list, together with all the lists and accounts taken in the respective divisions of their county, and all the documents, papers and proceedings of said assessors shall by them be filed in the office of the clerk of the county court of their county, on or before the first Monday in November next after their first meeting, one copy of said general list by them to be transmitted to the Governor of the Territory, on or before said day, to be laid before the Legislature at their next meeting, and one copy thereof to the auditor of public accounts, and one copy thereof to the Territorial Treasurer, and the other copy thereof to the sheriff of their county, each of said last mentioned copies shall be transmitted on or before the said first day of November; and to the copy of the said general list transmitted to the sheriff, said assessor shall subjoin a warrant, signed and attested, as aforesaid, in the form following: "Mississippi Territory of the United States. To ——— sheriff of the county of ——— greeting: You are hereby required to lay and collect a capitation tax of one dollar of each person named in the first column of the foregoing general list herewith committed to you, and of each person named in the second column of said list, amount of his or her tax expressed in the thirteenth column of said list, and on neglect or refusal to pay said sum or sums as-

to make and distribute four copies of the general list.

Form of warrant to be subjoined to the sheriff's list.

ferred in said list, you will proceed to enforce the collection thereof agreeable to and in pursuance of the provisions of an act entitled "An act to provide for the raising of a revenue;" and for the amount of said taxes, you will account with the auditor of public accounts, and pay the same into the Territorial Treasury within the time limited and in manner prescribed in and by said act, and for so doing this shall be your sufficient warrant. Given under our hands as assessors of the county aforesaid, the — day of — in the year of our Lord one thousand eight hundred and —

Attest, — Clerk.

— } *Assessors.*"

Penalty on assessor for failing to perform their duty.

Sec. 10. *And be it further enacted,* That if any assessor shall fail to perform any duty assigned by this act, within the time herein prescribed, not being prevented therefrom by sickness or other unavoidable accident he shall forfeit and pay the sum of two hundred dollars, to be recovered for the use of the Territory in any court having competent jurisdiction.

Compensation of assessors and clerks.

Sec. 11. *And be it further enacted,* That each assessor shall be allowed the sum of two dollars and fifty cents per day for every full day he shall be necessarily employed in the performance of the duties required by this act, and each clerk by them to be employed shall be allowed the like sum per day during the time he may be employed by said assessors, said compensations to be audited and allowed by the auditor of public accounts, and paid out of the territorial treasury.

Assessors to take bond and security of sheriffs.

Sec. 12. *And be it further enacted,* That before the assessors shall transmit or deliver to the sheriff a copy of the aforesaid general list, and their warrant in form aforesaid, it shall be the duty of said assessors to take from said sheriff a bond payable

to the auditor of public accounts and his successors in office, in the penal sum of double the amount of taxes contained in said general list, with two or more good and sufficient securities, freeholders, in their county, to be approved of by said assessors; conditioned, that said sheriff shall well and faithfully collect the taxes contained in said list, and truly account with the auditor of public accounts, therefor, and pay the same into the territorial treasury within the time prescribed by law; and the assessors shall transmit said bond to the auditor of public accounts with the copy of the general list before mentioned, and the office of any sheriff, refusing or neglecting to enter into such bond, shall be thereby vacated.

Sec. 13. *And be it further enacted,* That the sheriff shall, immediately after the receipt of the copy of said general list, and warrant of the assessors, advertise, by notifications, to be posted up in at least five public places in his county, that the taxes for that year have become due and payable, and the times and places at which he will attend to receive the same; and in respect to persons who shall not attend according to such notifications, it shall be the duty of said sheriff to apply once at their dwellings within his county, and there demand the taxes, payable by such persons, and if the same be not then paid, or within ten days thereafter, it shall be lawful for such sheriff to proceed to collect said taxes by distress and sale of the goods, chattels or effects of the person delinquent, with a commission of five per centum upon said taxes for the use of such sheriff, and the distress or distresses so taken shall be openly sold by the sheriff at public auction, four days notice of such sale being given by advertising the same at three public places in the county, and the overplus arising from such sale (if any) over and above the

Sheriff how to
proceed to col-
lect the taxes.

amount of taxes and charges of taking the distress, shall be immediately returned to the person taxed, with an account in writing of the sale and charges thereon, and if any person, assessed with a capitation tax, shall refuse to pay the same, and also refuse or neglect to shew to the sheriff sufficient goods or chattels wherein distress may be made therefor, in such case the sheriff may take the body of the person for refusing, and him commit to the gaol of the proper county, there to remain until such capitation tax and costs be paid, or he be discharged by the course of law.

Sec 14. *And be it further enacted,* That the aforesaid taxes, except the capitation tax, shall be and remain a lien upon all the lands and other real estate of the individual who may be assessed, and when any tax, except said capitation tax, shall have remained due and unpaid for the space of three months, the sheriff having advertised such land or other real estate for sale, with the name of person assessed and amount of tax, for two months in three of the most public places in his county, and (except in the county of Washington) every two weeks during that time, in two public Gazettes in this Territory (if two be published) shall proceed to sell at public sale said land or other real estate or so much thereof as shall be sufficient to satisfy said taxes and costs of sale: *Provided,* That in cases where any lands or other real estate shall be sold as aforesaid, the owner of said lands or other real estate, his heirs, executors or administrators, shall be at liberty to redeem the same at any time within one year from and after the time of sale, upon payment or tender of payment to the sheriff for the time being, for the use of the purchaser, his heirs or assigns for the amount of said taxes, costs and charges, with an interest thereon at the rate of forty per centum per annum; and

Taxes on pro-
p erty or as a
lien on real
estate

For the duties of
sheriff in collect-
ing the taxes.

When land is
sold for taxes,
owner may re-
deem, &c.

upon payment or tender of payment as aforesaid, within the time aforesaid, such sale shall be void, and no deed shall be given in pursuance of any such sale until the time of redemption shall have expired.

Sec. 15. *And be it further enacted,* That the sheriffs of the several counties (except the sheriff of the county of Washington) shall account to the auditor for, and pay into the treasury, on or before the first day of February next after assessing said taxes, the full amount thereof, except the amount of insolvencies allowed by the county court as herein after mentioned, and the amount of taxes, for the collection of which lands or other real estate are then advertised for sale; and the sheriff of the county of Washington shall account for and pay as aforesaid, except as aforesaid, on or before the first day of May next after assessing of the taxes in his county, and the amount of taxes collected by the sales of lands or other real estate, shall be accounted for to the auditor and paid into the territorial treasury by the several sheriffs respectively, on or before the first day of May next after the assessment of said taxes.

Sheriff, when
and how to ac-
count for taxes.

Sec. 16. *And be it further enacted,* That if any sheriff shall refuse or neglect to account to the auditor for, and pay into the treasury, the amount by him collected, or that ought to have been by him collected, in manner and within the time mentioned in the preceding section of this act, it shall be the duty of the auditor of public accounts, and he is hereby authorized and required to issue a warrant of distress, under his hand and seal of office, against such delinquent sheriff and his sureties for the amount due from him to the treasury, directed to the coroner of the proper county, returnable to said auditor, within sixty days from the date thereof, except the same be di-

Proceeding a-
gainst delinquent
sheriffs and secu-
rities.

rected to the coroner of the county of Washington, and in that case it shall be made returnable within four months from the date thereof; and the coroner shall levy and collect the sum due on said warrant by distress and sale of the goods and chattels or personal estate of the delinquent sheriff, and for want of such goods and chattels or effects, sufficient to satisfy said warrant, the same may be levied on the body of the delinquent sheriff who may be committed to prison thereon, there to remain until discharged by due course of law, And notwithstanding the commitment of the sheriff to prison as aforesaid, or if he abscond, and goods, chattels and effects cannot be found sufficient to satisfy said warrant, the coroner shall and may proceed to levy and collect the sum or sums due thereon, by distress and sale of the goods and chattels or any personal estate of the surety or sureties of such delinquent sheriff.

Amount of taxes
to be a lien on
the real estate of
sheriff and securi-
ties.

Sec. 17. *And be it further enacted,* That the amount of the sums committed to any sheriff for collection as aforesaid, shall and the same are hereby declared to be a lien upon the lands and real estate of such sheriff and his sureties until the same shall be discharged according to law; and for want of goods and chattels or other personal effects of such sheriff or his sureties, to satisfy any warrant of distress issued pursuant to the preceding section of this act, the lands and real estate of such sheriff and his sureties, or so much thereof as shall be necessary to satisfy said warrant, after being advertised for at least three weeks in three public places in the county, and in one Gazette printed in this Territory, prior to the proposed time of sale, may and shall be sold by the coroner; and for all lands and real estate sold in pursuance of the authority aforesaid, the conveyance of the coroner, executed in due form of law, shall vest a valid

title against all persons claiming under such delinquent sheriffs or their sureties as aforesaid.

Sec. 18. *And be it further enacted,* That any sheriff or deputy sheriff who shall be guilty of any extortion or oppression under colour of this act, or shall demand other or greater sums than shall be authorized by law, shall be liable to pay a sum not exceeding two hundred dollars, one half to the use of the proper county and the other half to the use of the party injured, to be recovered by information or indictment before any court having competent jurisdiction; and every sheriff shall if required, give and execute receipts for all sums by him collected and retained by virtue of this act.

Penalty on sheriff,
who may be guilty
of extortion.

Sec. 19. *And be it further enacted,* That for collecting said taxes there shall be allowed, and paid to each sheriff to be by him retained, on the final settlement of his accounts with the auditor, five per centum on the whole amount collected and accounted for by such sheriff.

Allowance to sheriff
for collecting
taxes.

Sec. 20. *And be it further enacted,* That in cases wherein the sheriff shall make it appear to the county court of his county that any person taxed in his list has become insolvent or absconded, and has no estate, real or personal in his county, of which said tax can be levied, and that said sheriff has been guilty of no *laches* in collecting the same, the said court shall certify an allowance by them of such insolvency, and such certificate shall exonerate the sheriff from accounting to the auditor, for the amount certified, but the amount of all sums so allowed by the court as assessed on insolvents, shall be included in the succeeding years' assessment by the auditor and treasurer on the county in which the insolvencies happen, over and above such county's proportion as specified in the first section of this act.

And in cases of
persons insolvent
or absconding.

Auditors warrants may be taken for territorial taxes.

Sec. 21. *And be it further enacted,* That all warrants drawn by the auditor of public accounts on the territorial treasurer, shall be taken and received in payment of territorial taxes.

Amount of territorial tax for 1805.

Sec. 22. *And be it further enacted,* That there shall be assessed and paid into the territorial treasury for the present year, according to the provisions of this act, a territorial tax of fifteen thousand dollars, and in addition to the proportion of that sum, there shall be assessed, as a territorial tax, upon the county of Wilkinson, the sum of nine hundred and twenty dollars, upon the county of Claiborne, the sum of five hundred and twenty-nine dollars, and upon the county of Washington, the sum of seven hundred and three dollars for the present year.

County taxes how to be laid and assessed, and when.

Sec. 23. *And be it further enacted,* That the justices of the county court of each county shall hold a special session of their court in each county on the second Monday of November annually for the purpose only of enquiring what sum may be necessary to be levied and raised in the respective counties to defray the necessary expences arising therein, and may and are hereby required to levy and assess a tax equal to the exigencies of their county, not exceeding however, one half of the amount of the territorial tax assessed on such county for the same year, and said court shall assess such county tax, upon the polls and property in the general list of the assessors of their county, proportionably, in the same manner as the territorial tax is assessed, in said list, except that the county capitation tax shall be twenty-five, or fifty cents on each poll, and said county court shall thereupon cause a list to be made out containing said county tax; the first and second columns of which said list shall be copied from the general list of the assessors of their county, and the third column of said list

shall contain the amount of taxes assessed on the persons named in the second column, and the amount of taxes expressed in the third column of said list, shall be added up and footed, and the amount of capitation tax contained in the first column added thereto, and one copy of said list be transmitted to the county treasurer and another copy thereof shall be transmitted to the sheriff of the county with a warrant thereto subjoined from said court in the same form *mutatis mutandis*, of the warrant by this act directed to be drawn by the assessors and subjoined to the copy of their general list.

Sec. 24. *And be it further enacted*, That said county tax shall be chargeable upon the persons and property assessed in the same manner as the territorial tax, and shall by the sheriff be collected within the same time, under the same restrictions, and with the same remedies, powers, and manner of proceeding in the collection thereof.

And how and
when collected.

Sec. 25. *And be it further enacted*, That before the said list of county taxes and warrant of collection shall be transmitted to the sheriff, he shall enter into bond with two good and sufficient securities, freeholders of the county, in double the amount of the county tax to be by him collected, payable to the county treasurer and his successors in office, conditioned, that said sheriff shall well and faithfully collect the county taxes contained in said list, and truly account with the county treasurer therefor, and pay the same into said county treasury, within the time prescribed by law; and said bond shall be transmitted to the county treasurer with the copy of said county list; and the office of any sheriff refusing, or neglecting to enter into such bond, shall be thereby vacated.

Sheriff to give
bond, &c. to col-
lect county tax.

Sec. 26. *And be it further enacted*, That the

And to account
therefor.

Proceedings a-
gainst him on fail-
ure to account.

Sheriffs to take
enumeration of
the inhabitants
in their respect-
ive counties.

in what manner.

to appoint assist-
ants.

Oath of sheriff
and his assistants.

sheriff shall account with the county treasurer and pay to him the amount of all county taxes collected by such sheriff within the same time as is prescribed for accounting with the auditor, and paying into the territorial treasury the territorial taxes. And if any sheriff make default in this behalf, judgment may be entered against such sheriff and his securities for such taxes or arrearages thereof, on motion of the county treasurer, and four days previous notice thereof to such sheriff and his securities in the circuit court of the proper county.

Sec. 27. *And be it further enacted,* That for the purpose of ascertaining the proportion of tax to be assessed on each county, the sheriffs of the several counties in this Territory shall be, and they are hereby authorized and required to cause the number of the inhabitants within their respective counties to be taken, omitting in such enumeration Indians, not taxed, and distinguishing free persons, including those bound to service for a term of years, from all others, distinguishing also the sexes and colours of free persons, and the free males of twenty-one years and upwards, from those under that age, for effecting which purpose, the sheriffs shall have power to appoint as many assistants, within their respective counties, as to them shall appear necessary, assigning to each assistant a certain division of his county, which shall consist of one or more town or townships, or of a section of such county, plainly bounded by water courses, ridges or public roads. The sheriffs and their assistants shall respectively take and subscribe an oath or affirmation before some justice of the peace within their respective counties previous to their entering on the discharge of the duties by this act required. The oath or affirmation of the sheriff shall be ; “ I A. B. sheriff of the county of — do solemnly swear (or affirm) that I will well and

truly cause to be made a just and perfect enumeration and description of all persons residing within my county, and return the same to the office of the Secretary of the Territory agreeable to direction of an act entitled "An act to provide for raising of a revenue," according to the best of my ability." The oath or affirmation of an assistant shall be: "I A. B. do solemnly swear (or affirm) that I will make a just and perfect enumeration and description of all persons residing within the division assigned to me by the sheriff of the county of _____ and make due return thereof to said sheriff agreeable to the directions of an act entitled "An act to provide for the raising of a revenue," according to the best of my ability."

Sec. 28. *And be it further enacted,* That the enumeration shall commence on the first Monday of May next, and close within two calendar months thereafter, the several assistants shall within the said two months transmit to the sheriff, by whom they shall be respectively appointed, accurate returns of all persons except Indians not taxed, within their respective divisions, and the like returns of the inhabitants of those parts of the respective counties, not allotted to assistants shall be made out within said two months by the respective sheriffs, which returns shall be made in a schedule distinguishing the several families by the names of their master, mistress, overseer or other principal person therein, in manner following, that is to say, the number of persons within my division consisting of (describing the division) appears in a schedule hereto annexed, subscribed by me this — day of _____ A. B. sheriff or assistant, to the sheriff of _____

Enumeration,
when to commence,
and to close.

Names of heads of families.	Free white males of 21 years and upwards, including heads of families.	Free white males under 21 years.	Free white females in- cluding heads of families.	Free males not white above the age of 21 years.	All other free persons.	Slaves.
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Form of the
schedule there-
of.

And every assistant failing to make return, or make a false return of the enumeration, to the sheriff, within the time limited by this act, shall forfeit the sum of one hundred dollars.

Sheriff to make return thereof to the Secretary's office,

In what time.

Sec. 29. *And be it further enacted,* That the sheriff shall transmit the several returns aforesaid taken and made by themselves, or assistants as aforesaid, together with the aggregate amount resulting from said returns of each description of persons in their respective counties to the office of the Secretary of this Territory, on or before the first day of August next ensuing, and every sheriff failing to transmit the same, or failing to transmit the aggregate number of each description of persons in their respective counties, to the office of the Secretary of this Territory, within the time limited by this act, shall forfeit the sum of five hundred dollars, all of which forfeitures shall be recovered by information or indictment to the use of this Territory.

Compensation of sheriff for taking said enumeration.

Sec. 30. *And be it further enacted,* That each sheriff shall receive at the rate of one dollar for every hundred persons by him returned, to be paid out of the territorial treasury on the warrant of the auditor of public accounts.

Persons occasionally absent to be taken in the enumeration.
Persons above 21 years of age, bound to make

Sec. 31. *And be it further enacted,* That every person occasionally absent at the time of enumeration, shall be enumerated, as belonging to the place in which he usually resides. And every person above the age of twenty-one years belonging to a family, whether the head thereof or no, shall be and is hereby obliged to render to such sheriff or assistant a true account, if required, to the best of his or her knowledge, of every person belonging to such family respectively, accordingly to the several descriptions aforesaid, on pain of forfeiting the sum of twenty dollars, to be sued for and recovered by such sheriff or assistant before any justice

of the peace of the proper county, one half to the use of such sheriff or assistant, and the other half to the use of this Territory.

Sec. 32. *And be it further enacted*, That the act entitled, "An act to ascertain what property in this Territory shall be deemed taxable property, and the mode of collecting, accounting for and paying public taxes," passed the 30th day of January, 1802; and an act entitled, "An act additional to an act, and for amending and repealing part of an act, entitled, "An act to ascertain what property in this Territory shall be deemed taxable property, and the mode of collecting, accounting for and paying public taxes," passed the 12th day of March, 1803, and the "Act supplementary to the aforesaid acts," passed the 18th day of November, 1803, be and the same are hereby repealed: *Provided*, That any taxes or assessments, either territorial or county, made under any of the aforesaid acts for the year 1803, or prior to that time, shall be collected, received and paid under and by virtue of said acts, in the same manner as if said acts were in full force and effect: *Provided also*, That the operation of the act for the erection of a gaol in Jefferson county, passed during this session, shall not be affected by this act, and that in the county of Jefferson no county capitation tax shall be assessed by the county court, except in virtue of the last mentioned act for the present year.

Repealing clause

Proviso.

Proviso.

Sec. 33. *And be it further enacted*, That where it shall appear that any person has paid a tax for the year 1804, contrary to the intent and meaning of this act, that on producing a receipt for the tax paid unto the sheriff for the year 1804, to the collector of the tax for the year 1805, the said collector shall give him credit on account of his taxes for the amount of the receipt so produced.

Persons having paid tax for 1804 to receive a credit for the amount thereof, on account of taxes for 1805.

Commentement: Sec. 34. *And be it further enacted, That this act shall commence and be in force from and after the passing thereof, and from thence to the end of the next session of the General Assembly, and no longer.*

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 8th, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

To empower the Justices of the county court of Jefferson county to hold a special court.

Special court in Jefferson county to take securities from sheriff for collecting county tax.

BE *it enacted, by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That the justices of the county court of Jefferson county, are hereby authorized and directed to hold a special court at the court-house of their county, on the first Monday of April next, for the express purpose of taking securities from the sheriff of said county for the faithful collection of the county taxes.*

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 8th, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

Supplemental to the act, entitled, "An act to erect the Town of Natchez into a City, and to incorporate the same."

Sec. 1. **BE** it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That the Mayor, Aldermen and Assistants of the city of Natchez be, and they are hereby authorized and empowered, to alter and appoint the days and times of holding the sessions of the Mayor's court of said city, and also to take away any number of the terms of said court, so that six terms thereof be holden in each year.

Mayor, &c. empowered to alter and appoint the number of terms of city court, and the times of holding it.

Sec. 2. *And be it further enacted,* That said court may hereafter take cognizance and have jurisdiction of all civil causes and actions wherein the matter in controversy shall not exceed the value of five hundred dollars, and the defendant and plaintiff usually reside in said city, or one of them usually resides in said city and the other is a transient person, or wherein both parties are transient persons, or the plaintiff resides out of this Territory and the defendant resides in said city, or is a transient person: *Provided,* That nothing in this act contained, or in the act to which this is a supplement, shall hereafter be so construed as to the mayor's court to take cognizance or jurisdiction of any civil cause or action wherein either the plaintiff or defendant is a permanent resident of any part of this Territory, without the limits of said city: *Provided also,* That the fees taken and allowed in the mayor's court, in any suit brought after the

Jurisdiction of said court in certain cases.

Fees of that court not to exceed those of county court.

passing of this act, shall not exceed the fees established by law for the county courts.

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 8th, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

Explanatory of "An Act" passed the eighteenth day of November, 1803, supplementary to the Acts of the General Assembly providing for the raising of a Revenue, passed the 30th of January, 1802, and the 12th of March, 1803.

WHEREAS doubts have arisen, as to what lands are liable to taxation within this Territory, by virtue of the above recited act: Therefore,

BE it enacted, by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That nothing in the before recited act, or any other act or law in force in this Territory, shall be so construed as to authorise the taxation or sale for taxes of any lands in this Territory of non residents, claiming by virtue of any British patent, and not confirmed to such non resident claimants, by the articles of agreement and cession between the United States and the State of Georgia, or by the Board of Commissioners for settling land claims within this Territory.

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 8th, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

Lands of non resident British claimants not taxable.

AN ACT

Authorising the issuing of process returnable to the next Term of the Circuit Court of Claiborne County.

BE it enacted, by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That writs and all kinds of process may be issued returnable to the next term of the circuit court of Claiborne county, tested of the day that the circuit court ought to have been holden in said county in the present month.

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 8th, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

R E S O L U T I O N S.

Resolution requesting the Governor to correspond with the President of the U. S. &c. respecting the Natchez Hospital.

Resolved, By the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That the Secretary of the Territory, exercising the powers and performing the duties of Governor of the same, be authorized and requested, to address a letter to the President of the United States, one to the Governor of the State of Pennsylvania, one to the Governor of the State of Virginia, one to the Governor of the State of Kentucky, one to the Governor of the State of Tennessee, one to the Governor of the State of Ohio, and one to the Governor of the Indiana Territory, on the subject of the Hospital establishment in the City of Natchez, enclosing one copy of the Memorial of the Mayor, Aldermen, Assistants, Medical Faculty and other Citizens of the City of Natchez, and also one copy of the law, entitled, "An act establishing a Hospital in the City of Natchez, and incorporating Trustees of the same," in each of said letters.

And be it further Resolved, That the Public Printer be, and he is hereby directed, to furnish, immediately, seven copies of the aforesaid Memorial, and also of the law, neatly printed, for the above said purpose.

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the first, 1805,

CATO WEST, *Secretary of the Mississippi Territory,*
acting as Governor of the same.

Resolved, By the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That the Auditor of Public accounts be, and he is hereby required, to audit the account of Daniel James, to the amount of twenty dollars, in full compensation for certain services rendered as clerk of Jefferson district at a special court of Oyer and Terminer in 1804, and that the said Auditor draw his warrant on the territorial treasurer for that amount, in favor of the claimant.

Resolution allowing Daniel James compensation for certain services.

JOHN STEELE, *Speaker of the House of Representatives, pro tempore.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 5th, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

Resolved, By the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That the Auditor of Public Accounts be, and he is hereby directed, to audit the account of James Denly, to the amount of seventy-six dollars and eighty cents, for victualling a prison guard in the county of Washington, and that he draw his warrant on the territorial treasurer for that sum in favor of the claimant.

Resolution allowing James Denly compensation for certain services.

JOHN STEELE, *Speaker of the House of Representatives, pro tempore.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 5th, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

Resolved, By the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That the Auditor of Public Accounts be, and he is hereby required, to audit the account of Robert Miller, Sheriff of Jef-

Resolution allowing Robert Miller compensation for certain services.

ferfon county, to the amount of forty dollars, in full compenfation for certain fervices rendered at a fpecial court of Oyer and Terminer in faid county in 1804, and that the faid Auditor draw his warrant on the territorial Treafurer for that amount, in favor of the claimant.

JOHN STEELE, *Speaker of the Houfe of Representatives, pro tempore.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 5th, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the fame.*

Resolution allowing John Brooks compenfation for certain fervices.

Resolved, By the Legislative Council and Houfe of Representatives of the Mississippi Territory, in General Affembly convened, That the Auditor of Public Accounts be, and he is hereby required, to audit the account of John Brooks, to the amount of two hundred and fifty-eight dollars, in full compenfation for fundry fervices rendered as the riff of Pickering county, and afterwards as the riff of Jefferson county, and ffue his warrant on the territorial Treafurer for the above amount, in favor of the claimant.

JOHN STEELE, *Speaker of the Houfe of Representatives, pro tempore.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 5th, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the fame.*

Resolution allowing Ebenezer Rees compenfation for the ufe of a cellar ufed as a gaol for Adams county.

Resolved, By the Legislative Council and Houfe of Representatives of the Mississippi Territory, in General affembly convened, That the Auditor of Public Accounts be, and he is hereby directed to audit the account of Ebenezer Rees, to the amount of two hundred and twenty dollars, in full compenfation for the rent of a cellar occupied as a gaol for the county of Adams, in the year 1803, and that the faid Auditor draw his warrant on the

territorial treasurer in favor of the claimant for that amount.

JOHN STEELE, *Speaker of the House of Representatives, pro tempore.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 5th, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

Resolved, By the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened; That the Auditor of Public Accounts be, and he is hereby required, to audit the account of Jacob Fleaharty, to the amount of thirteen hundred and nineteen dollars, in full compensation for furnishing, guarding and victualling prisoners in Jefferson county in 1804, and that the Auditor of Public Accounts draw his warrant on the territorial Treasurer for the said sum, in favor of the claimant.

Resolution allowing Jacob Fleaharty compensation for certain services.

JOHN STEELE, *Speaker of the House of Representatives, pro tempore.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 5th, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

Resolved, By the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened; That the Auditor of Public Accounts be, and he is hereby directed, to audit the account of Asa Searcy, to the amount of eighty dollars, for furnishing a room for the safe-keeping a prisoner in Jefferson county, victualling prisoner, and personal attendance on guard, and issue his warrant on the territorial Treasurer for the above amount, in favor of the claimant.

Resolution allowing Asa Searcy compensation for certain services.

JOHN STEELE, *Speaker of the House of Representatives, pro tempore.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 5th, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

Resolution allowing compensation to William Nicholls for certain services.

Resolved, By the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That the Auditor of Public Accounts be, and he is hereby directed, to audit the account of William Nicholls, late Sheriff of Adams county, to the amount of two thousand dollars, in full compensation for keeping the gaol, furnishing and victualling a guard and keeping prisoners, and all other public services by him rendered during his continuance in said office, and that the auditor draw his warrant on the territorial Treasurer for said amount, in favor of the claimant.

PHILANDER SMITH, *Speaker of the House of Representatives,*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 6th, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

WHEREAS very many and important advantages would result, as well to the agricultural as to the commercial interest of this Territory, and also to the inhabitants of the upper countries on the waters of the Mississippi, from the establishment of a bank and the circulation of bank notes within this Territory :

Resolution requesting the governor to enquire upon what terms an office of discount and deposit could be, &c.

Resolved, By the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That the Secretary of the Territory exercising the powers of Governor, be requested to communicate with the president and directors of the bank of the United States, for the purpose of obtaining information and ascertaining the manner and terms on which an office of discount and deposit could be established in the City of Natchez

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

March the 8th, 1805.

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ERRATA.

Act for the relief of John Randon and others, page 8, line 14 from the bottom, for "*Stiggins*" read *Stiggins*.

Act for the limitation of actions, and for avoiding vexatious law suits, sec. 7, line 11 from the bottom, for "*proceeding*" read *preceding*.

Act to establish a Town in Washington County. by the name of Wakefield, sec. 2d, line 12 from the bottom, for "*Denby*" read *Denly*.